

EXHIBIT 22

Transcript of Thomas Zarro
Conducted on November 21, 2024

1 (1 to 4)

1	3
1 UNITED STATES DISTRICT COURT	1 A P P E A R A N C E S
2 for the	2 ON BEHALF OF PLAINTIFF, JAMES DEPPOLETO:
3 District of Nevada	3 PATRICK HARVEY, ESQUIRE
4 -----x	4 511 North Broadway
5 JAMES DEPPOLETO,	5 Suite 1100
6 Plaintiff,	6 Milwaukee, WI 53202
7 v.	7 (414) 273-2100
8 TAKEOVER INDUSTRIES INCORPORATED,:	8
9 ET AL.	9 ON BEHALF OF DEFENDANT, TAKEOVER INDUSTRIES
10 Defendant.	10 INCORPORATED, ET AL.:
11 -----x	11 DON BENNION, JR., ESQUIRE
12 Deposition of THOMAS ZARRO, in His Individual	12 LAW OFFICE OF S. DON BENNION
13 Capacity	13 6980 O'Bannon Drive
14 Las Vegas, Nevada	14 Suite 400
15 Thursday, November 21, 2024	15 Las Vegas, Nevada 89117
16 8:22 a.m.	16 (702) 333-0777
17	17
18	18 ALSO PRESENT:
19	19 Esteban Horta, Videographer
20	20
21	21
22	22
23 Job No.: 561644	23
24 Pages 1 - 279	24
25 TranscribedBy: Jennifer Candela-Alvarez	25
2	4
1 Deposition of THOMAS ZARRO, held at the offices of:	1 C O N T E N T S
2	2 EXAMINATION OF THOMAS ZARRO
3 Shea Larsen	3 By Mr. Harvey
4 1731 Village Center Circle	4
5 Suite 150	5 E X H I B I T S
6 Las Vegas, NV 89134	6 (Attached to transcript.)
7 (702) 471-7432	7 ZARRO DEPOSITION EXHIBIT
8	8 Exhibit 1 Convertible Note Purchase Agreement 98
9	9 Exhibit 2 Emails Re: Stay of Default 104
10	10 Exhibit 3 Emails Re: Payment Information 111
11 Pursuant to agreement, before	11 Exhibit 4 Emails Re: Notes and Payments 112
12 Mylene Santiano, Notary Public, in and for the	12 Exhibit 5 Letter Re: Convertible Note Purchase
13 state of Nevada.	13 Agreement 115
14	14 Exhibit 6 Resolution of the Board of Directors 132
15	15 Exhibit 7 Labor Smart Inc.
16	16 Exhibit 8 Proposed Term Sheet 167
17	17 Exhibit 9 Labor Smart Inc.
18	18 Exhibit 10 Responses to Plaintiff's First Set of
19	19 Interrogatories 182
20	20 Exhibit 11 Takeover Industries Inc.,
21	21 Balance Sheet 184
22	22 Exhibit 12 Resolution of the Board of
23	23 Directors Takeover 192
24	24 Exhibit 13 Tom's Response to Subpoena
25	25 Duces Tecum 194

Transcript of Thomas Zarro
Conducted on November 21, 2024

2 (5 to 8)

5	7
<p>1 C O N T E N T S (Continued)</p> <p>2 Exhibit 14 Personal Bank Statement 199</p> <p>3 Exhibit 15 Takeover Bank Statement 239</p> <p>4 Exhibit 16 Letter from Whitehead & Burnett 255</p> <p>5 Exhibit 17 Takeover Withdrawals and Deposits'</p> <p>6 Statement 256</p> <p>7 HOLLEY DEPOSITION EXHIBIT PAGE</p> <p>8 Exhibit 1 Cease and Desist</p> <p>9 Exhibit 4 Board of Directors of Takeover</p> <p>10 Industries 134</p> <p>11 Exhibit 10 Related Party Receivable</p> <p>12 Confirmation 162</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 a stipulation. I am a notary authorized to</p> <p>2 administer oaths, and this deposition will be</p> <p>3 recorded by electronic means. All parties</p> <p>4 understand and agree that any certified transcript</p> <p>5 produced from the recording of this proceeding is</p> <p>6 intended for all uses permitted under applicable</p> <p>7 procedural and evidentiary rules and laws and shall</p> <p>8 constitute written stipulation. The parties</p> <p>9 stipulate to the use and certification of this</p> <p>10 testimony consistent with applicable law of such.</p> <p>11 If there are no objections, I will now swear in the</p> <p>12 witness.</p> <p>13 Whereupon,</p> <p>14 THOMAS ZARRO,</p> <p>15 being first duly sworn or affirmed to testify to</p> <p>16 the truth, the whole truth, and nothing but the</p> <p>17 truth, was examined and testified as follows:</p> <p>18 EXAMINATION BY COUNSEL FOR THE PLAINTIFF</p> <p>19 BY MR. HARVEY:</p> <p>20 Q Good morning, Mr. Zarro.</p> <p>21 A Hey, Patrick.</p> <p>22 Q Could you state and spell your full name</p> <p>23 for us, please.</p> <p>24 A Thomas Zarro.</p> <p>25 Q And spell it, please.</p>
6	8
<p>1 PROCEEDINGS</p> <p>2 THE VIDEOGRAPHER: Here begins Media No.</p> <p>3 1 in the videotaped deposition of Tom Zarro,</p> <p>4 individually, in the matter of James Deppoleto,</p> <p>5 Plaintiff v. Takeover Industries, Incorporated, et</p> <p>6 al., Defendants in the United States District Court</p> <p>7 of the District of Nevada, Case No. 2:22CV02013.</p> <p>8 Today's date is Thursday, November 21st,</p> <p>9 2024. The time on the video monitor is 8:22 a.m.</p> <p>10 The videographer today is Esteban Horta,</p> <p>11 representing Planet Depos. This video deposition</p> <p>12 is taking place at 1731 Village Center Circle,</p> <p>13 Suite 150, Las Vegas, Nevada 89134.</p> <p>14 Will Counsel please voice identify</p> <p>15 themselves and state whom they represent?</p> <p>16 MR. HARVEY: Patrick Harvey for the</p> <p>17 Plaintiff.</p> <p>18 MR. BENNION: Don Bennion for the</p> <p>19 Defendants, specifically, for Tom Zarro here today</p> <p>20 in his individual and corporate capacities.</p> <p>21 THE VIDEOGRAPHER: The court reporter</p> <p>22 today is Mylene Santiano, representing Planet</p> <p>23 Depos. Would the reporter please swear in the</p> <p>24 witness.</p> <p>25 THE REPORTER: Thank you. First, I have</p>	<p>1 A T-H-O-M-A-S, Zarro, Z-A-R-R-O.</p> <p>2 Q And what's your address, sir?</p> <p>3 A 1100 Boletus Drive, Henderson, Nevada,</p> <p>4 89011.</p> <p>5 Q Any plans to move in the near future?</p> <p>6 A None scheduled.</p> <p>7 Q Okay. Can you quickly walk me through</p> <p>8 your education? Just high school onwards.</p> <p>9 A I went to San Diego State for two years.</p> <p>10 Well, high school at Saint Augustine High School in</p> <p>11 San Diego, California, then San Diego State for two</p> <p>12 years.</p> <p>13 Q And what were you studying at San Diego</p> <p>14 State?</p> <p>15 A Economics.</p> <p>16 Q Did you receive a degree?</p> <p>17 A I did not.</p> <p>18 Q Okay. Anything else?</p> <p>19 A For education?</p> <p>20 Q Yes.</p> <p>21 A No, sir.</p> <p>22 Q Okay. Have you ever been deposed before</p> <p>23 today?</p> <p>24 A I have not.</p> <p>25 Q Okay. I assume you had a chance to</p>

Transcript of Thomas Zarro
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3 (9 to 12)

9	<p>1 speak with your counsel about things like answering</p> <p>2 verbally and deposition tips and tricks, that type</p> <p>3 of thing?</p> <p>4 A Yes. We have.</p> <p>5 Q Do I need to waste time going over</p> <p>6 those, or do you feel comfortable?</p> <p>7 A I don't know if there's any rules, laws.</p> <p>8 I have no objection of you going over them. I've</p> <p>9 never done this before. So --</p> <p>10 Q Okay. Well, I--</p> <p>11 A If you want to give me the highlights,</p> <p>12 feel free.</p> <p>13 Q I don't feel like I need to, but if you</p> <p>14 need to, then I will.</p> <p>15 A Okay. Can I ask you?</p> <p>16 THE REPORTER: The court reporter would</p> <p>17 ask that, if you do, slow down. Just, like, take a</p> <p>18 breath and slow down the general conversation.</p> <p>19 Thank you.</p> <p>20 MR. HARVEY: I'll go through them</p> <p>21 quickly.</p> <p>22 So, one, answer verbally instead of</p> <p>23 uh-huh or huh-uh. I understand what you're saying</p> <p>24 perfectly in regular conversation, but it makes it</p> <p>25 very difficult for the court reporter if you don't</p>	11	<p>1 we've supplied you. We've reviewed some of the</p> <p>2 documents that we've submitted on our behalf that</p> <p>3 you requested, and we've spoken briefly about</p> <p>4 things that you're saying that you're short on in</p> <p>5 the way of documents that we believe we've</p> <p>6 submitted or I've submitted. Excuse me. So --</p> <p>7 Q Let me try to come at it this way: Did</p> <p>8 you review your discovery responses, your written</p> <p>9 responses?</p> <p>10 A Some.</p> <p>11 Q Okay. And you said you reviewed some</p> <p>12 exhibits that -- or documents that your side has</p> <p>13 produced in this litigation; is that correct?</p> <p>14 A Yes.</p> <p>15 Q Do you remember any specific exhibits?</p> <p>16 A Bank statements.</p> <p>17 Q Anything else?</p> <p>18 A None specifically that I recall, but</p> <p>19 there was a lot, Mr. Harvey.</p> <p>20 Q Okay. Do you remember any other</p> <p>21 specific document other than the bank statements</p> <p>22 and discovery responses that you reviewed?</p> <p>23 A I reviewed the exhibit, I think you</p> <p>24 provided, with the -- an invoice from Great</p> <p>25 Northern that Mr. Deppoleto paid for, I guess.</p>
10	<p>1 say yes or no.</p> <p>2 Similarly, it makes it difficult for her</p> <p>3 to take down two people talking at once. So if you</p> <p>4 can let me finish my question before you answer it,</p> <p>5 and I will let you finish your answer before I</p> <p>6 answer the next question, so we don't get in</p> <p>7 trouble with the court reporter --</p> <p>8 A Okay.</p> <p>9 Q -- because that you don't want to do.</p> <p>10 If you don't understand one of my questions, let me</p> <p>11 know. I'm happy to rephrase it to make sure that</p> <p>12 we're on the same page before you give an answer.</p> <p>13 Fair?</p> <p>14 A Yes, sir.</p> <p>15 Q Okay. By the same token, if you answer</p> <p>16 one of my questions, though, I'm going to assume</p> <p>17 that you understood it. Is that fair?</p> <p>18 A Yes.</p> <p>19 Q Okay. Did you review any documents to</p> <p>20 prepare for your deposition today?</p> <p>21 A I did.</p> <p>22 Q What did you review?</p> <p>23 A I don't have the specifics, but there's</p> <p>24 a mountain of paperwork if you will. So I've</p> <p>25 reviewed some of the exhibits you've presented that</p>	12	<p>1 Q Had you seen that document before you</p> <p>2 reviewed it for your deposition?</p> <p>3 A No, sir, I did not.</p> <p>4 Q And there were two invoices; correct?</p> <p>5 A I recall one.</p> <p>6 Q Okay. I'm going to get into the</p> <p>7 timeline in a little bit more detail, but since</p> <p>8 we're talking about it now, were you involved at</p> <p>9 all with Takeover when those two invoices were</p> <p>10 generated? And the dates on those were October and</p> <p>11 November 2022. Were you involved with Takeover?</p> <p>12 A No, I was not.</p> <p>13 MR. HARVEY: That may have just cut</p> <p>14 about two hours off your deposition.</p> <p>15 THE WITNESS: Thank you.</p> <p>16 MR. HARVEY: But we'll see.</p> <p>17 THE WITNESS: Thank you.</p> <p>18 MR. BENNION: And if I could just</p> <p>19 interject, you may want to go a little bit slower,</p> <p>20 Mr. Zarro, in case I need to object. I -- anyway.</p> <p>21 MR. HARVEY: Oh, that's one of the other</p> <p>22 rules too. As you can see, there's no judge in the</p> <p>23 -- in the conference room with us today. So there</p> <p>24 will probably be a couple of times where your</p> <p>25 lawyer wants to get an objection on the record.</p>

Transcript of Thomas Zarro
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4 (13 to 16)

<p style="text-align: right;">13</p> <p>1 THE WITNESS: New pen, please. That one</p> <p>2 doesn't work.</p> <p>3 MR. HARVEY: If and when that happens,</p> <p>4 go ahead and let him just get his objection on the</p> <p>5 record. And then, unless he tells you otherwise,</p> <p>6 go ahead and answer.</p> <p>7 THE WITNESS: Got it.</p> <p>8 MR. HARVEY: He's just preserving the</p> <p>9 objection.</p> <p>10 BY MR. HARVEY:</p> <p>11 Q Okay. So -- okay. So you said you</p> <p>12 reviewed the invoice from Great Northern, but you</p> <p>13 weren't involved with Takeover in the October or</p> <p>14 November 2022 time frame?</p> <p>15 A Correct. I was not.</p> <p>16 Q Okay. Other than the bank statements,</p> <p>17 the invoice from Great Northern or invoices from</p> <p>18 Great Northern and the discovery responses, do you</p> <p>19 remember reviewing any other documents to prepare</p> <p>20 for (crosstalk).</p> <p>21 A Not specifically.</p> <p>22 Q All right. Okay. And I see that you</p> <p>23 brought some documents with you. What did you</p> <p>24 bring with you?</p> <p>25 A These are the documents you sent me. I</p>	<p style="text-align: right;">15</p> <p>1 Q A figurative mountain.</p> <p>2 A Yes.</p> <p>3 Q Okay. Can you briefly walk me through</p> <p>4 your employment history for the last ten years.</p> <p>5 A I was a salesman for a logistics company</p> <p>6 selling ocean freight services to Hawaii, Guam, and</p> <p>7 Alaska. I've also been --</p> <p>8 MR. HARVEY: Hold on a second.</p> <p>9 THE WITNESS: Oh, sorry.</p> <p>10 Q Who was the logistics company?</p> <p>11 A Triple B Forwarders.</p> <p>12 Q Triple B --</p> <p>13 A Triple B Forwarders, as in ocean freight</p> <p>14 forwarding.</p> <p>15 Q Okay. And from when to when were you a</p> <p>16 salesman for logistics for Triple B Forwarders?</p> <p>17 Approximate is fine.</p> <p>18 A I'm going to say 2014ish, 2013, '14 to</p> <p>19 2020. These are very approximate, Mr. Harvey.</p> <p>20 Q That's fine. Yeah.</p> <p>21 A Yeah. And then I had a trucking</p> <p>22 company. I've been somewhat of an entrepreneur.</p> <p>23 So I've had a trucking company. I have real</p> <p>24 estate, rental real estate, and I work in the</p> <p>25 recovery community here in Las Vegas. So I have</p>
<p style="text-align: right;">14</p> <p>1 just got these in the mail. I was out of town.</p> <p>2 Just got them, and these are your documents. I</p> <p>3 don't know if they're from you, but --</p> <p>4 Q Do you mind if I take a look at them?</p> <p>5 THE WITNESS: I didn't know if they'd be</p> <p>6 relevant for today.</p> <p>7 MR. BENNION: There's no question before</p> <p>8 you.</p> <p>9 THE WITNESS: Okay. Thank you.</p> <p>10 Q So this appears to be a November 6,</p> <p>11 2024, letter from my office about your discovery</p> <p>12 responses and generally asking you to supplement</p> <p>13 them. Is that fair?</p> <p>14 A Yes, sir.</p> <p>15 Q Okay. Thank you. Okay. Any other</p> <p>16 documents you remember reviewing in preparation for</p> <p>17 your deposition?</p> <p>18 A None specifically.</p> <p>19 Q And you said mountains. Were you being</p> <p>20 -- were you exaggerating a little bit, or was it</p> <p>21 essentially as thick as this folder I've got next</p> <p>22 to me which is --</p> <p>23 A No. It was nowhere near as thick, and</p> <p>24 it was electronic. So there was no mountain. It</p> <p>25 was only virtual.</p>	<p style="text-align: right;">16</p> <p>1 multiple dwellings to help the addicted, homeless,</p> <p>2 and abused.</p> <p>3 Q So when you say recovery, meaning</p> <p>4 recovering from addiction, not recovery, such as</p> <p>5 collections --</p> <p>6 A No.</p> <p>7 Q -- to --</p> <p>8 A Addiction, abuse, homelessness.</p> <p>9 Q Got it. Okay. So the trucking company</p> <p>10 -- how long have you had that? Do you still have</p> <p>11 it?</p> <p>12 A That should be a yes or no. I do not.</p> <p>13 I do not. I still have it. I don't operate it</p> <p>14 anymore.</p> <p>15 Q From when to when were you operating it?</p> <p>16 A 2019 to -- through 2024.</p> <p>17 Q And what was that called?</p> <p>18 A Cargo Management Group.</p> <p>19 Q And was that operating in Nevada or --</p> <p>20 A It was an over-the-road hauler. So we</p> <p>21 were licensed in Nevada but carried freight</p> <p>22 throughout the 48 states.</p> <p>23 Q Okay. And you said a rental real estate</p> <p>24 company; correct?</p> <p>25 A No. Not a -- I own rental real estate.</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

5 (17 to 20)

<p style="text-align: right;">17</p> <p>1 I don't own a rental real estate company.</p> <p>2 Q Do you run that through an LLC or</p> <p>3 something similar?</p> <p>4 A I do.</p> <p>5 Q And what's that called?</p> <p>6 A TK Zarro.</p> <p>7 Q And is that in Nevada or somewhere else?</p> <p>8 A Nevada.</p> <p>9 Q Okay. And the recovery addiction piece</p> <p>10 -- is that a for profit or is that a nonprofit?</p> <p>11 A Both. We have a nonprofit and a for</p> <p>12 profit. The rental real estate side is for profit,</p> <p>13 even though it struggles, and the nonprofit is</p> <p>14 embedded in that.</p> <p>15 Q Oh, I see. So they -- some of the real</p> <p>16 estate that you own goes to the recovery addiction.</p> <p>17 A For housing for the people. And then we</p> <p>18 have the nonprofit side which provides the services</p> <p>19 for the residents.</p> <p>20 Q Got it. Okay. Thanks. So is that</p> <p>21 under the TK Zarro name too, or is that under</p> <p>22 something else?</p> <p>23 A Something else.</p> <p>24 Q What's that one called?</p> <p>25 A Clean Shot Living.</p>	<p style="text-align: right;">19</p> <p>1 A I think gamer -- I think Takeover made</p> <p>2 Gamer Shots. I don't know that they sold Gamer</p> <p>3 Shots.</p> <p>4 Q Okay.</p> <p>5 A Again, that was before my time,</p> <p>6 Mr. Harvey. So I know they manufactured Gamer</p> <p>7 Shots. I just don't know if they sold them.</p> <p>8 Q Okay.</p> <p>9 A I --</p> <p>10 Q Oh, I'm sorry. Go ahead if you weren't</p> <p>11 done.</p> <p>12 A I'm done.</p> <p>13 Q Okay. Are you --</p> <p>14 THE WITNESS: I'm getting kicked under</p> <p>15 the table. That was a joke.</p> <p>16 MR. BENNION: He's not getting kicked.</p> <p>17 Q Are you familiar with a brand called</p> <p>18 NXTLVL, N-X-T-L-V-L?</p> <p>19 A I am.</p> <p>20 Q And what's your understanding of what</p> <p>21 NXTLVL is?</p> <p>22 A NXTLVL was the brand that Takeover</p> <p>23 Industries sold for its hydrogen water and energy</p> <p>24 shots.</p> <p>25 Q Okay. And I think you just said it.</p>
<p style="text-align: right;">18</p> <p>1 Q Okay. Any other employment in the last</p> <p>2 ten years?</p> <p>3 A None that I can speak of. No.</p> <p>4 Q Okay. We're here in part because</p> <p>5 there's a Defendant called Takeover Industries</p> <p>6 Incorporated. What's your understanding of what</p> <p>7 Takeover Industries Incorporated is?</p> <p>8 A It's a -- can you rephrase that,</p> <p>9 Mr. Harvey. I'm confused.</p> <p>10 Q Sure. Sure.</p> <p>11 A Like, it's a company. It's a company</p> <p>12 based in Nevada.</p> <p>13 Q Okay. And what -- to your</p> <p>14 understanding, what does Takeover do for a</p> <p>15 business?</p> <p>16 A Nothing now.</p> <p>17 Q What did it do?</p> <p>18 A It was in the business of selling energy</p> <p>19 drinks.</p> <p>20 Q And I believe they've been called Gamer</p> <p>21 Shots in previous depositions. Is that a term</p> <p>22 you're familiar with?</p> <p>23 A I am familiar with it.</p> <p>24 Q And did you understand that Takeover</p> <p>25 sold Gamer Shots?</p>	<p style="text-align: right;">20</p> <p>1 Well, you said NXTLVL sold hydrogen water and</p> <p>2 energy shots; correct?</p> <p>3 A Correct.</p> <p>4 Q Is your understanding that NXTLVL was</p> <p>5 used on any products other than hydrogen water and</p> <p>6 energy shots?</p> <p>7 THE WITNESS: Interesting question,</p> <p>8 Mr. Harvey.</p> <p>9 MR. HARVEY: I get a couple per</p> <p>10 deposition.</p> <p>11 A Yeah. The answer to your question is</p> <p>12 yes.</p> <p>13 Q What else did they sell?</p> <p>14 A They -- when you say they, define they.</p> <p>15 Q NXTLVL and/or Takeover.</p> <p>16 A When you say NXTLVL, do you mean NXTLVL</p> <p>17 for Takeover or NXTLVL for the company that owned</p> <p>18 the trademark? Because there's a product -- well,</p> <p>19 should I continue or just wait for Mr. Harvey to</p> <p>20 ask me more questions?</p> <p>21 MR. BENNION: The process here, if you</p> <p>22 don't mind, Counsel, is that he asks you questions</p> <p>23 and you answer. And if there's -- if I have an</p> <p>24 objection, then I interpose the objection before</p> <p>25 you answer.</p>

Transcript of Thomas Zarro
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6 (21 to 24)

<p style="text-align: right;">21</p> <p>1 THE WITNESS: But -- okay. I'd like to</p> <p>2 be able to give Mr. Harvey some color. The court</p> <p>3 reporter asked me to tell the whole truth. So what</p> <p>4 are the rules?</p> <p>5 MR. BENNION: He asks you questions, and</p> <p>6 you answer to the best of your knowledge.</p> <p>7 THE WITNESS: Go ahead, Mr. Harvey.</p> <p>8 BY MR. HARVEY:</p> <p>9 Q Okay. So, to me, that last answer you</p> <p>10 gave -- it sounded like you were drawing a</p> <p>11 distinction between Takeover and NXTLVL on the one</p> <p>12 silo, I'll call it, and then a different NXTLVL and</p> <p>13 a different silo. Is that what you were getting</p> <p>14 at?</p> <p>15 A Yeah. I think it's relevant to this</p> <p>16 case, and there was another product, another brand,</p> <p>17 another water called NXTLVL.</p> <p>18 Q And that other company you're talking</p> <p>19 about -- did it have anything to do with Takeover?</p> <p>20 A It did not other than a litigant.</p> <p>21 Q Okay. So I think I understand where</p> <p>22 you're going. This other company -- do you know</p> <p>23 where it's based out of -- the NXTLVL?</p> <p>24 A I think New Jersey.</p> <p>25 Q Okay. Now let me go back to my -- a</p>	<p style="text-align: right;">23</p> <p>1 rule I broke, clearly.</p> <p>2 MR. HARVEY: No. You've been doing</p> <p>3 pretty good so far. Don't worry about it.</p> <p>4 THE WITNESS: Thank you.</p> <p>5 A Ask the question again, Mr. Harvey.</p> <p>6 Q Sure. I thought you told me that they</p> <p>7 stopped selling the hydrogen water because of</p> <p>8 manufacturer issues and also conflict issues with</p> <p>9 -- and I didn't hear if you said owners or</p> <p>10 something similar. Is that --</p> <p>11 A The manufacturer issues were, in my</p> <p>12 opinion, perceived.</p> <p>13 Q What do you mean by that?</p> <p>14 A That I don't believe they were</p> <p>15 insurmountable and the conflict came with previous</p> <p>16 management that began a lawsuit or began the</p> <p>17 process of a lawsuit with the manufacturer of the</p> <p>18 hydrogen water. So it was completely discontinued</p> <p>19 for NXTLVL and Takeover.</p> <p>20 Q Can you say a little bit more about</p> <p>21 that? So the manufacturer issues -- let's just</p> <p>22 stick with that for one moment. You said it -- you</p> <p>23 thought it was kind of a perceived issue, but it</p> <p>24 wasn't really an issue and it could have been</p> <p>25 worked through. Is that fair?</p>
<p style="text-align: right;">22</p> <p>1 couple of questions ago. In terms of the NXTLVL</p> <p>2 involved with Takeover in that silo, as it were,</p> <p>3 other than hydrogen water and energy drinks, were</p> <p>4 you aware of Takeover/NXTLVL selling any other</p> <p>5 products?</p> <p>6 A No.</p> <p>7 Q Okay. To your knowledge, are there any</p> <p>8 products that are still being sold under the brand</p> <p>9 name NXTLVL that's affiliated with Takeover?</p> <p>10 A No.</p> <p>11 Q When, to your knowledge, did the -- did</p> <p>12 the NXTLVL/Takeover products stop being sold?</p> <p>13 A Well, the NXTLVL hydrogen water stopped</p> <p>14 being sold, I think, in -- sometime in 2022. It</p> <p>15 was discontinued due to manufacturer issues and</p> <p>16 conflicts with the previous management. So the</p> <p>17 hydrogen water was discontinued. The energy shots,</p> <p>18 I believe, were still being sold in November -- in</p> <p>19 late 2022, November, Decemberish.</p> <p>20 Q You said the hydrogen water was -- they</p> <p>21 stopped selling it because of manufacturer issues</p> <p>22 and conflict issues with --</p> <p>23 A Well, I didn't --</p> <p>24 Q -- management? Oh, go ahead.</p> <p>25 THE WITNESS: I'm sorry. That was a</p>	<p style="text-align: right;">24</p> <p>1 A Fair.</p> <p>2 Q And what -- can you put a little more</p> <p>3 meat on the bones? What specifically was the</p> <p>4 debate or the hiccup?</p> <p>5 A The hiccup was that, on a rare occasion,</p> <p>6 there would be a sulfur smell from one of the cans</p> <p>7 of the hydrogen water. It was nontoxic. It was</p> <p>8 just an unfavorable smell. And the previous</p> <p>9 management took that as an opportunity to do what I</p> <p>10 believe they do for a living, which is sue people,</p> <p>11 and he tried to -- forgive my adjective -- extort</p> <p>12 that company for millions of dollars.</p> <p>13 Q And the previous management -- who are</p> <p>14 you referring to when you say that?</p> <p>15 A Well, Jason Tucker specifically, but I</p> <p>16 think James Deppoleto --</p> <p>17 Deppoleto?</p> <p>18 Q Deppoleto.</p> <p>19 A -- Deppoleto was part of that with</p> <p>20 Jason, Mr. Tucker.</p> <p>21 Q So your understanding is that Takeover,</p> <p>22 the company, sued the manufacturer?</p> <p>23 A They began the process of a lawsuit by</p> <p>24 engaging attorneys, sending letters, if not suing,</p> <p>25 threatening to sue.</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

7 (25 to 28)

<p style="text-align: right;">25</p> <p>1 Q And which manufacturer was this?</p> <p>2 A Faith Springs.</p> <p>3 Q And do you know the time period when</p> <p>4 this was all happening?</p> <p>5 A I think -- I'm going to say mid-2022</p> <p>6 when the water -- I believe, the water was</p> <p>7 completely discontinued.</p> <p>8 Q Do you know how much they were demanding</p> <p>9 from Faith Springs?</p> <p>10 A I believe \$2 million. That's a fuzzy</p> <p>11 recollection, Mr. Harvey.</p> <p>12 Q Okay. And when you said conflict issues</p> <p>13 with the owners and management, were you referring</p> <p>14 to something separate from what you just told me or</p> <p>15 essentially the same as what you just told me?</p> <p>16 A I believe it's essentially the same.</p> <p>17 Like, the previous manager, the president and CEO</p> <p>18 of Takeover, was Jason Tucker. His director -- one</p> <p>19 of them was James Deppoleto. And Jason's line of</p> <p>20 work was suing people. That's what he does for a</p> <p>21 living. So he took that trade and brought it into</p> <p>22 this energy company -- energy drink company, and I</p> <p>23 believe that was his intention with Faith Springs.</p> <p>24 Q And when you say that Mr. Tucker's line</p> <p>25 of work is suing people, what's your basis for</p>	<p style="text-align: right;">27</p> <p>1 A Yeah. I guess I should ask you to</p> <p>2 define involved. I was a shareholder, I was a</p> <p>3 customer, and I was an investor, but I wasn't</p> <p>4 involved to the degree where I think I'm involved</p> <p>5 now.</p> <p>6 MR. BENNION: I'm going to state a</p> <p>7 belated objection that it may be vague and</p> <p>8 ambiguous. Lacks foundation.</p> <p>9 Go ahead.</p> <p>10 Q Well, so let me -- I'll ask it this way:</p> <p>11 When did you first, in any capacity, become</p> <p>12 involved with Takeover?</p> <p>13 MR. BENNION: The same objection.</p> <p>14 Go ahead.</p> <p>15 A I've been a shareholder of the parent</p> <p>16 company that Takeover is owned by for many, many</p> <p>17 years. So when Takeover began, I guess I was</p> <p>18 involved as an investor and then as a customer of</p> <p>19 their products.</p> <p>20 Q And the parent company you're referring</p> <p>21 to -- is that Labor Smart?</p> <p>22 A Correct. Yes.</p> <p>23 Q When did you first become a shareholder</p> <p>24 of Labor Smart?</p> <p>25 A 2013 or '14?</p>
<p style="text-align: right;">26</p> <p>1 saying that?</p> <p>2 A He's an intellectual rights -- I don't</p> <p>3 know the legal term -- intellectual property.</p> <p>4 Like, he tries to find people in violation of</p> <p>5 something and then goes after them.</p> <p>6 Q And where are you -- from what source</p> <p>7 are you --</p> <p>8 A It's common knowledge. Social media.</p> <p>9 Q Okay. And you said a conflict issue.</p> <p>10 Why is that a conflict?</p> <p>11 A Well, I'm using the term conflict as he</p> <p>12 couldn't get along with them.</p> <p>13 Q Okay.</p> <p>14 A Not a legal term where he had a</p> <p>15 conflict.</p> <p>16 Q Okay. So not a conflict of interest</p> <p>17 like lawyers might use?</p> <p>18 A No, no, no.</p> <p>19 Q Now you told me that -- so it was your</p> <p>20 understanding that this was all occurring in</p> <p>21 mid-2022; correct?</p> <p>22 A That's my recollection.</p> <p>23 Q But at the beginning of the deposition,</p> <p>24 you said you weren't involved with Takeover in at</p> <p>25 least November of 2022; correct?</p>	<p style="text-align: right;">28</p> <p>1 Q When did you first hear the name</p> <p>2 Takeover and/or NXTLVL?</p> <p>3 A I want to say January-February of 2021.</p> <p>4 Q And what was the -- what were the</p> <p>5 circumstances in which you first heard that name?</p> <p>6 A Social media where it had become -- made</p> <p>7 public that Takeover was going to enter the Labor</p> <p>8 Smart public vehicle.</p> <p>9 Q And when you say that, you mean that</p> <p>10 Takeover was going to be able to be publicly traded</p> <p>11 through its affiliation with Labor Smart?</p> <p>12 A Correct. Yes.</p> <p>13 Q What was Labor Smart, to your knowledge,</p> <p>14 doing in early 2021?</p> <p>15 A A labor -- they were a labor business.</p> <p>16 Q When you say labor business --</p> <p>17 A They owned -- they operated branches of</p> <p>18 you know, Labor Ready, the on-demand day labor.</p> <p>19 Q A temp agency?</p> <p>20 A Temp agency. Thank you.</p> <p>21 Q Okay. So you heard of Takeover because</p> <p>22 you got word that Takeover was going to be able to</p> <p>23 be offered publicly through Labor Smart in early</p> <p>24 2021; is that correct?</p> <p>25 A Correct. Yes.</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

8 (29 to 32)

<p style="text-align: right;">29</p> <p>1 Q Okay. From that point forward, what was</p> <p>2 the next involvement of any kind that you had with</p> <p>3 Takeover?</p> <p>4 A Officially, as an investor, I invested.</p> <p>5 They needed money. I invested. I was an investor.</p> <p>6 Q You invested directly in Takeover?</p> <p>7 A Into the parent company of LTNC.</p> <p>8 Q Okay. So when you -- I don't know if</p> <p>9 you wrote a check like they did in the old days but</p> <p>10 whatever.</p> <p>11 A I sent a wire.</p> <p>12 Q Okay. When you sent the wire transfer,</p> <p>13 it was a wire transfer to Labor Smart, not to</p> <p>14 Takeover; correct?</p> <p>15 A I don't recall the exact beneficiary on</p> <p>16 the wire.</p> <p>17 Q Do you remember when that was?</p> <p>18 A June of '21.</p> <p>19 Q And whether the wire went to Labor Smart</p> <p>20 or directly to Takeover, your understanding was</p> <p>21 that it was going to be used for Takeover; is that</p> <p>22 true?</p> <p>23 A Yes.</p> <p>24 Q Okay. Who approached you about doing</p> <p>25 that?</p>	<p style="text-align: right;">31</p> <p>1 It's a -- it's a question about the deposition and</p> <p>2 the answers and stuff.</p> <p>3 MR. BENNION: Just we're here for the</p> <p>4 deposition. Mr. Harvey's going to ask you</p> <p>5 questions. I will object. You answer. If you</p> <p>6 feel like you need to have a discussion with me,</p> <p>7 there's no question before you now; so we could</p> <p>8 take a break if Mr. Harvey allows it.</p> <p>9 THE WITNESS: I don't need a break.</p> <p>10 It's really just a very quick question. No? It</p> <p>11 doesn't work like that? Okay.</p> <p>12 MR. HARVEY: I'm hoping to get him out</p> <p>13 of here as quickly as possible. If you want to ask</p> <p>14 it -- and we'll say whether you can -- whether we</p> <p>15 can or will.</p> <p>16 THE WITNESS: Okay.</p> <p>17 MR. HARVEY: How about that?</p> <p>18 THE WITNESS: Okay. There's not a lot</p> <p>19 of yes or no questions.</p> <p>20 MR. BENNION: These are conversations</p> <p>21 between you and me.</p> <p>22 THE WITNESS: Oh, okay.</p> <p>23 MR. BENNION: You're on the record here.</p> <p>24 He asks questions. Answer the questions and -- the</p> <p>25 best of your knowledge.</p>
<p style="text-align: right;">30</p> <p>1 A Jason Tucker.</p> <p>2 Q And do you remember the circumstances</p> <p>3 around that?</p> <p>4 A Not really. Not specifically.</p> <p>5 Q How long had you known Jason Tucker?</p> <p>6 A I hadn't. I was introduced to him, and</p> <p>7 he introduced himself and asked me if I would be</p> <p>8 interested in helping the company, and I said yes.</p> <p>9 Q Okay. By the way, to your knowledge,</p> <p>10 does Takeover have any employees today?</p> <p>11 A No.</p> <p>12 Q Do you know whether Takeover ever had</p> <p>13 employees?</p> <p>14 A I believe it did. Yeah. I believe so.</p> <p>15 Q From when to when do you understand?</p> <p>16 A I would say when it started, sometime in</p> <p>17 January '21, until it was -- it ceased active</p> <p>18 operations sometime in mid- to late '22.</p> <p>19 THE WITNESS: Am I allowed to ask a</p> <p>20 question?</p> <p>21 MR. HARVEY: Unfortunately not.</p> <p>22 THE WITNESS: Okay.</p> <p>23 MR. BENNION: Well, if you need to go to</p> <p>24 the bathroom or something like that --</p> <p>25 THE WITNESS: Oh. No. No, no, no.</p>	<p style="text-align: right;">32</p> <p>1 THE WITNESS: Okay.</p> <p>2 MR. BENNION: You're under oath, and</p> <p>3 that's been explained to you.</p> <p>4 BY MR. HARVEY:</p> <p>5 Q At any point, have you ever been an</p> <p>6 officer of Takeover?</p> <p>7 A Yes.</p> <p>8 Q From when to when?</p> <p>9 A I'm believing April 23ish to current.</p> <p>10 Q And do you have a specific title as an</p> <p>11 officer? CEO? COO? anything like that?</p> <p>12 A Yes.</p> <p>13 Q And what -- has it been more than one or</p> <p>14 --</p> <p>15 A I believe it's CEO.</p> <p>16 Q That whole time frame?</p> <p>17 A Yeah. Well, I believe so, and don't</p> <p>18 quote me, please, Mr. Harvey. No. I guess you</p> <p>19 have to, but I don't -- I don't recall if it is, in</p> <p>20 fact, CEO.</p> <p>21 Q Okay. In any event, your understanding</p> <p>22 is you've been an officer since around April of</p> <p>23 2023?</p> <p>24 A Yes. Yes.</p> <p>25 Q And you remain an officer today?</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

9 (33 to 36)

33	<p>1 A Yes.</p> <p>2 Q Okay.</p> <p>3 THE REPORTER: Could I pause for just a</p> <p>4 second? My battery's running low.</p> <p>5 MR. HARVEY: Sure.</p> <p>6 MR. BENNION: Yeah, please. Please. I</p> <p>7 need to stretch my leg.</p> <p>8 THE VIDEOGRAPHER: Go off the record?</p> <p>9 MR. BENNION: Let's go off the record.</p> <p>10 THE VIDEOGRAPHER: Yeah. Sure. We are</p> <p>11 going off the record. The time is 8:50 a.m.</p> <p>12 (Off the record.)</p> <p>13 (On the record.)</p> <p>14 THE VIDEOGRAPHER: We are back on the</p> <p>15 record. The (audio dropped.)</p> <p>16 BY MR. HARVEY:</p> <p>17 Q Before we went off the record, you said</p> <p>18 you had been an officer of Takeover from about</p> <p>19 April 2023 to the present; correct?</p> <p>20 A That's my recollection.</p> <p>21 Q And you thought you were a CEO?</p> <p>22 A Yes.</p> <p>23 Q Okay. Did James Deppoleto provide</p> <p>24 written consent for your appointment as Takeover's</p> <p>25 CEO?</p>	35
34	<p>1 MR. BENNION: Objection to the extent it</p> <p>2 m may call for speculation. Lacks foundation.</p> <p>3 Go ahead.</p> <p>4 A I don't recall.</p> <p>5 Q Are you aware of any officer or director</p> <p>6 of Takeover seeking Mr. Deppoleto's consent to have</p> <p>7 you appointed as Takeover's CEO?</p> <p>8 MR. BENNION: Same objection.</p> <p>9 A I don't recall.</p> <p>10 Q What's your understanding of your duties</p> <p>11 and responsibilities to Takeover since April of</p> <p>12 2023?</p> <p>13 A I believe it's my obligation to do</p> <p>14 everything I can to protect it, preserve it, and</p> <p>15 help it, you know.</p> <p>16 Q Now when I asked you about your</p> <p>17 employment history before, you didn't mention</p> <p>18 working for Takeover as its CEO. Should we add</p> <p>19 that to your list of employment for the last ten</p> <p>20 years?</p> <p>21 A Well, I'm not compensated, Mr. Harvey.</p> <p>22 So I guess I should have asked -- been more clear.</p> <p>23 If you're asking me what I've gotten paid for,</p> <p>24 that's what I asked, or that's what I answered.</p> <p>25 Q Okay. Thank you for clarifying that.</p>	36
	<p>1 A Yeah.</p> <p>2 Q So when I asked you earlier, whether you</p> <p>3 were compensated or not, have you had any other</p> <p>4 employment history in the last ten years other than</p> <p>5 what we've talked about so far?</p> <p>6 A Then the answer is yes. I've worked</p> <p>7 with Takeover and Next Gen Beverages.</p> <p>8 Q Okay. What is your title at Next Gen</p> <p>9 Beverages?</p> <p>10 A CEO -- interim CEO, officially.</p> <p>11 Q And from when to when did you -- well,</p> <p>12 you still are with Next Gen Beverages; correct?</p> <p>13 A Correct.</p> <p>14 Q When did you begin any affiliation with</p> <p>15 Next Gen Beverages?</p> <p>16 A I believe when that company was formed,</p> <p>17 and I'm guessing Juneish, June '23.</p> <p>18 Q June 2023?</p> <p>19 A Yes, sir.</p> <p>20 Q Okay. Other than Takeover and Next Gen</p> <p>21 and the other positions that you told me about</p> <p>22 about ten minutes ago, any other employment in the</p> <p>23 last ten years whether compensated or not?</p> <p>24 A No.</p> <p>25 Q Okay. So when I asked you what your</p>	

Transcript of Thomas Zarro
Conducted on November 21, 2024

10 (37 to 40)

<p style="text-align: right;">37</p> <p>1 officially took the role in April.</p> <p>2 Q When you say working from a distance,</p> <p>3 what do you mean by that?</p> <p>4 A Like, just trying to help. Just trying</p> <p>5 -- you know, saw a genuine need. That people were</p> <p>6 disenfranchised. There was a lot of misconception,</p> <p>7 misinformation. I knew the company was in dire</p> <p>8 straits, and I did what I could to try and jump in</p> <p>9 and help it.</p> <p>10 Q And, again, you prefaced all that by</p> <p>11 saying the earlier engagement. Moving all that</p> <p>12 list of things you just told me from -- you started</p> <p>13 in April of 2023 with those things. When did you</p> <p>14 stop doing those things?</p> <p>15 A No. The -- all of those things were</p> <p>16 done prior to the official April '23 date. Like,</p> <p>17 that took place when I started, when I realized</p> <p>18 that they were not making payments to me and there</p> <p>19 were challenges financially with the company, and</p> <p>20 I'm guessing that was sometime Decemberish '22. I</p> <p>21 believe that's when I first reached out to</p> <p>22 Mr. Deppoleto.</p> <p>23 Q Okay. So when you took over the</p> <p>24 official position in April of 2023, how, if at all,</p> <p>25 did your work on behalf of the company change?</p>	<p style="text-align: right;">39</p> <p>1 the purpose of my whole engagement was to help the</p> <p>2 shareholders that were disenfranchised by</p> <p>3 Mr. Tucker and Mr. Deppoleto's actions.</p> <p>4 Q When you say your goal is to get Labor</p> <p>5 Smart trading publicly, wasn't it trading publicly</p> <p>6 before mid-2023?</p> <p>7 A It was, and then it became delisted due</p> <p>8 to lack of -- I don't even know the words. Just --</p> <p>9 it just was not -- all those things I did, that I</p> <p>10 said I did to protect it and the shareholders,</p> <p>11 those things weren't being done by the previous</p> <p>12 management.</p> <p>13 Q Of Labor Smart?</p> <p>14 Q Of Labor Smart, of Takeover.</p> <p>15 Q Now, as I understand it from previous</p> <p>16 depositions, there was an overlap in management at</p> <p>17 both Takeover and Labor Smart. Is that accurate?</p> <p>18 MR. BENNION: Objection to the extent</p> <p>19 that it may call for speculation. Vague and</p> <p>20 ambiguous. Lacks foundation.</p> <p>21 Go ahead.</p> <p>22 THE WITNESS: I'm sorry. Say the</p> <p>23 question again.</p> <p>24 MR. HARVEY: Sure.</p> <p>25 Q My understanding from previous</p>
<p style="text-align: right;">38</p> <p>1 Q Only in an official capacity.</p> <p>2 Q Okay. So things like accounting, you</p> <p>3 were doing that before and after?</p> <p>4 A Not accounting. I'm not the accountant.</p> <p>5 Q Okay. Well, I thought you mentioned</p> <p>6 that was something that you were helping out with</p> <p>7 as you said accounting, insurance.</p> <p>8 A Yeah. Like, making sure the accounting</p> <p>9 was done for compliance reasons. Takeover is owned</p> <p>10 by Labor Smart, Mr. Harvey, and, as such, it has</p> <p>11 responsibilities to its parent company.</p> <p>12 Q Okay. Okay. Do you have any formal</p> <p>13 title with Labor Smart?</p> <p>14 A I believe interim CEO.</p> <p>15 Q How long have you had that title?</p> <p>16 A I would say mid-'23, officially,</p> <p>17 Mr. Harvey.</p> <p>18 Q Why did you become the interim CEO of</p> <p>19 Labor Smart in mid-2023?</p> <p>20 A The goal, the purpose for my engagement,</p> <p>21 was to get the company trading publicly. And --</p> <p>22 Q When you say the company, do you mean</p> <p>23 Labor Smart?</p> <p>24 A Yeah. Labor Smart.</p> <p>25 -- and help the shareholders. That was</p>	<p style="text-align: right;">40</p> <p>1 deposition testimony in this case is that there was</p> <p>2 overlap in the management between Labor Smart and</p> <p>3 Takeover. Is that a fair characterization?</p> <p>4 A I believe so. I don't know the</p> <p>5 specifics, but I believe so.</p> <p>6 Q And it was also my understanding, from</p> <p>7 previous testimony that although Labor Smart</p> <p>8 started off in the temping space, like you just</p> <p>9 told me about, when Takeover was brought on board,</p> <p>10 perhaps not right away, but the temping function in</p> <p>11 Labor Smart was moved out to a private company. Is</p> <p>12 that your understanding?</p> <p>13 A Yes.</p> <p>14 Q And from that point forward, although</p> <p>15 Labor Smart was still called Labor Smart,</p> <p>16 essentially its only asset, for at least a period</p> <p>17 of time, was Takeover in the drink business. Is</p> <p>18 that fair?</p> <p>19 A I believe so.</p> <p>20 Q Okay. Do you know why Labor Smart got</p> <p>21 out of the temp space?</p> <p>22 A I do not.</p> <p>23 Q And in terms of the overlap in</p> <p>24 management, is it your understanding that that was</p> <p>25 taking place because Labor Smart, for all intents</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

11 (41 to 44)

41	<p>1 and purposes, was only operating through Takeover</p> <p>2 in the energy and hydrogen water business?</p> <p>3 MR. BENNION: Objection to the extent it</p> <p>4 may call for a legal conclusion.</p> <p>5 You can go ahead.</p> <p>6 A Oh, yeah. I think at the time they were</p> <p>7 --</p> <p>8 MR. HARVEY: And, again, if he objects,</p> <p>9 unless he tells you not to answer, go ahead and</p> <p>10 just answer.</p> <p>11 THE WITNESS: Okay.</p> <p>12 Q Okay. So in terms of your -- taking you</p> <p>13 back to your role as Takeover's CEO, I just want to</p> <p>14 close the loop here. In terms of insurance, you</p> <p>15 were making sure that insurance was taken care of.</p> <p>16 Is that fair?</p> <p>17 A I was making a generality that, you</p> <p>18 know, with any company, there's a million things,</p> <p>19 and those million things were being watched to the</p> <p>20 best of my ability.</p> <p>21 Q Did Takeover ever have directors and</p> <p>22 officers' insurance?</p> <p>23 A I don't believe it did when I came on.</p> <p>24 Q And you seem like you qualified that by</p> <p>25 saying when you came on? Did it later?</p>	43
42	<p>1 A Yes.</p> <p>2 Q From when to when?</p> <p>3 A I don't -- I don't recall, but I made</p> <p>4 sure of it when I -- when I came on, you know,</p> <p>5 trying to do the right things for the company.</p> <p>6 Q So at some point after April of 2023,</p> <p>7 when you became the CEO, you did, in fact, procure</p> <p>8 D&O insurance for Takeover; correct?</p> <p>9 A I instructed others to make sure it got</p> <p>10 procured.</p> <p>11 Q Who did you instruct to do that?</p> <p>12 A Mike Holley.</p> <p>13 Q And did Mike Holley actually do that?</p> <p>14 A I believe so.</p> <p>15 Q So there's an insurance policy somewhere</p> <p>16 that you believe Mike Holley procured at some point</p> <p>17 after April of 2023?</p> <p>18 A I believe so.</p> <p>19 Q Okay.</p> <p>20 MR. HARVEY: Counsel, that has not been</p> <p>21 produced to us. Obviously, we're making a request</p> <p>22 for it.</p> <p>23 MR. BENNION: Understood.</p> <p>24 MR. HARVEY: Thank you.</p> <p>25 Q To your knowledge, is that policy still</p>	44
	<p>1 in effect today or a new policy?</p> <p>2 A I sure hope so.</p> <p>3 Q All right.</p> <p>4 A I don't have the particulars,</p> <p>5 Mr. Harvey. I don't know if it's, you know.</p> <p>6 Q Okay. Now I was asking you about</p> <p>7 positions as an officer with Takeover. I want to</p> <p>8 transition slightly. Have you ever been a board</p> <p>9 member of Takeover?</p> <p>10 A I believe I am on the board of Takeover.</p> <p>11 Q Okay. When did you first become a board</p> <p>12 member?</p> <p>13 A I believe that was in early '23ish.</p> <p>14 Q And have you had -- have you been, for</p> <p>15 example, the board chairman in that time -- during</p> <p>16 that timeframe?</p> <p>17 A I don't believe I'm chairman.</p> <p>18 Q Okay. But you are still a board member</p> <p>19 today, to your knowledge?</p> <p>20 A I believe so.</p> <p>21 Q Did James Deppoleto ever provide written</p> <p>22 consent for your appointment to the Takeover Board?</p> <p>23 A I don't -- I don't believe so.</p> <p>24 Q Are you aware of any other officer or</p> <p>25 director of Takeover seeking Mr. Deppoleto's</p>	

Transcript of Thomas Zarro
Conducted on November 21, 2024

12 (45 to 48)

45	<p>1 A The -- you know, we have -- I believe</p> <p>2 all board members have fiduciary duties to protect,</p> <p>3 preserve, you know, be honest, be forthright,</p> <p>4 monetize all involved in the entity. And in this</p> <p>5 particular entity, it was owned by a public</p> <p>6 company. The public company has many, many</p> <p>7 shareholders, including your client. So I've</p> <p>8 worked very hard to make sure that the owners of</p> <p>9 that company get their due, and I've delivered on</p> <p>10 that in large degree, again, for Mr. Deppoleto.</p> <p>11 Q So correct me if I'm wrong, but I'm</p> <p>12 guessing you don't track your time like we lawyers</p> <p>13 are sometimes forced to do?</p> <p>14 A Yeah. Don't talk to me about lawyers'</p> <p>15 time, please.</p> <p>16 MR. BENNION: There's no question before</p> <p>17 you.</p> <p>18 THE WITNESS: Oh, I'm sorry, sir.</p> <p>19 Q Actually, do you track your time like</p> <p>20 lawyers do?</p> <p>21 A I do not.</p> <p>22 Q Okay.</p> <p>23 A I do not.</p> <p>24 Q Congratulations.</p> <p>25 A Yes.</p>	47	<p>1 A In Labor Smart.</p> <p>2 Q For your efforts to assist Takeover. Is</p> <p>3 that what you're saying?</p> <p>4 A Yes. And the company in general.</p> <p>5 Q How many shares were you issued?</p> <p>6 A I believe -- for Takeover?</p> <p>7 Q For your work that you did for Takeover.</p> <p>8 A I believe 50 million.</p> <p>9 Q And when was this?</p> <p>10 A Months ago.</p> <p>11 Q In 2024?</p> <p>12 A I believe so, yes.</p> <p>13 Q And was there a document that documents</p> <p>14 this transfer of shares?</p> <p>15 A I would assume. Again, I don't handle</p> <p>16 the share issuances.</p> <p>17 Q Who authorized this issuance of shares?</p> <p>18 A Mike Holley and the board.</p> <p>19 Q Of Labor Smart?</p> <p>20 A Yes.</p> <p>21 Q Who's on the Board of Labor Smart today?</p> <p>22 A Tom, me; Mike Holley, Manny Pacquiao,</p> <p>23 Luis Sequeira -- I don't know how to pronounce his</p> <p>24 last name -- Luis Sequeira; Tom Fitzgerald, Sr.,</p> <p>25 Brad Wyatt, and Scott Darnell.</p>
46	<p>1 Q What I'm getting at, though, with the</p> <p>2 question is -- I understand you gave me a bunch of</p> <p>3 things that you did in terms of your role as</p> <p>4 Takeover's CEO. Are there things that you have</p> <p>5 done solely in your capacity as a board member for</p> <p>6 Takeover that are distinct from what you told me</p> <p>7 you did in your role as a CEO?</p> <p>8 MR. BENNION: Same objection to the</p> <p>9 extent it's vague and ambiguous. Lacks foundation.</p> <p>10 May call for a legal conclusion.</p> <p>11 Go ahead.</p> <p>12 A It would be very hard for me to</p> <p>13 differentiate, Mr. Harvey.</p> <p>14 Q Okay. Have you ever received any</p> <p>15 compensation from Takeover at all?</p> <p>16 A I have not gotten paid.</p> <p>17 Q And even if you haven't been paid,</p> <p>18 compensation could include, for example, additional</p> <p>19 shares that have not been cashed in. Any</p> <p>20 compensation whatsoever. Have you received any</p> <p>21 compensation?</p> <p>22 A I believe I've been issued shares. They</p> <p>23 have not been cashed in or recognized.</p> <p>24 Q You've been issued shares in Takeover or</p> <p>25 Labor Smart?</p>	48	<p>1 Q Other than in terms of your involvement</p> <p>2 with Labor Smart, you told me that you began</p> <p>3 investing in around 2013 or 2014, and then you also</p> <p>4 told me that you were -- you've been the interim</p> <p>5 CEO since around mid-2023. Have you had any other</p> <p>6 involvement with Labor Smart?</p> <p>7 A Since '23 or in between?</p> <p>8 Q At any point other than --</p> <p>9 A Well, since '23, yes, very much so.</p> <p>10 It's like a full-time job.</p> <p>11 Q Let me ask it this way: So your first</p> <p>12 involvement with Labor Smart -- you were a</p> <p>13 shareholder beginning in '23 -- in 2013-2014;</p> <p>14 correct?</p> <p>15 A Correct.</p> <p>16 Q And then in mid-2023, you became the</p> <p>17 interim CEO of Labor Smart; correct?</p> <p>18 A Correct.</p> <p>19 Q So that's kind of two hats that you've</p> <p>20 had with Labor Smart. Fair?</p> <p>21 A Well, in fact, just retail investor and</p> <p>22 then insider director. Yes.</p> <p>23 Q Okay. Have you ever held any other</p> <p>24 positions with Labor Smart, be it employee? board</p> <p>25 member? Well, I think you just told me board</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

13 (49 to 52)

49	<p>1 member too.</p> <p>2 A Mm-hmm. Yeah. Board member.</p> <p>3 Q Okay. So you've had three roles --</p> <p>4 interim CEO, board member, and shareholder?</p> <p>5 A Yes.</p> <p>6 Q Okay. Any other roles that you've had</p> <p>7 with Labor Smart other than those three?</p> <p>8 A Not that I can put a title to.</p> <p>9 Q When did you become a board member of</p> <p>10 Labor Smart?</p> <p>11 A I think it was in that mid-'23</p> <p>12 timeframe.</p> <p>13 Q Now if you became an investor in Labor</p> <p>14 Smart around 2013-2014, why did you not take on a</p> <p>15 larger role with Labor Smart until around mid-2023?</p> <p>16 A The reason I became involved was because</p> <p>17 my private note was not getting paid. That caused</p> <p>18 me to insert myself to understand the facts. Once</p> <p>19 I did that, I realized kind of what was taking</p> <p>20 place and found an opportunity to try and help out.</p> <p>21 Prior to that, the company was being managed and</p> <p>22 ran.</p> <p>23 Q Okay. So in terms of your duties and</p> <p>24 responsibilities at Labor Smart -- let's say the</p> <p>25 day before you became a board member or the interim</p>
50	<p>1 CEO -- what were your duties and responsibilities</p> <p>2 for that time frame?</p> <p>3 A I think I was doing most of the same but</p> <p>4 not in an official capacity.</p> <p>5 Q When did you begin doing those duties?</p> <p>6 A I believe early '23. Very early '23.</p> <p>7 Q Okay. And so the fact that you were</p> <p>8 named interim CEO and/or board member in mid-2023,</p> <p>9 that didn't bring about a change in your duties or</p> <p>10 responsibilities to Labor Smart? It was just a</p> <p>11 continuation of what you had already been doing.</p> <p>12 Is that fair?</p> <p>13 MR. BENNION: Objection. Calls for a</p> <p>14 legal conclusion. Lacks foundation.</p> <p>15 A For the most part, Mr. Harvey.</p> <p>16 Q Okay. Is Labor Smart the sole</p> <p>17 shareholder of Takeover?</p> <p>18 A I can't answer the question. I don't</p> <p>19 understand it.</p> <p>20 Q Does Takeover have shareholders?</p> <p>21 A Yes.</p> <p>22 Q Is Labor Smart the only shareholder of</p> <p>23 Takeover?</p> <p>24 A Labor Smart is the owner of Takeover.</p> <p>25 Q Are there shareholders other than Labor</p>
51	<p>1 Smart?</p> <p>2 MR. BENNION: I'm going to state an</p> <p>3 objection to this line of questioning to the extent</p> <p>4 it may call for a legal conclusion.</p> <p>5 Go ahead.</p> <p>6 A Are there other shareholders of</p> <p>7 Takeover, yes, I believe so.</p> <p>8 Q That own direct shares in Takeover or --</p> <p>9 A I believe so. Yes.</p> <p>10 Q Okay. Who else are you aware of who</p> <p>11 owns a direct share?</p> <p>12 A I think James Deppoleto is one of them.</p> <p>13 I don't know the others because -- yeah. I think</p> <p>14 James.</p> <p>15 Q Is, to your knowledge, Labor Smart the</p> <p>16 majority shareholder of Takeover?</p> <p>17 A The majority owner. Yes.</p> <p>18 Q What's the distinction you draw between</p> <p>19 owner and shareholder?</p> <p>20 A I don't know the exact share structure</p> <p>21 of Takeover. I do on Labor Smart, and I do -- I</p> <p>22 know that Labor Smart is a 97ish percent owner of</p> <p>23 Takeover.</p> <p>24 Q Who, to your knowledge, would know the</p> <p>25 exact breakdown of the shares of Takeover in terms</p>
52	<p>1 of who owns what?</p> <p>2 A The transfer agent.</p> <p>3 Q Who's the transfer agent?</p> <p>4 A Clear Trust.</p> <p>5 Q Where are they based out of?</p> <p>6 A Florida.</p> <p>7 Q Is there a specific individual at Clear</p> <p>8 Trust?</p> <p>9 A Not that I deal with. I don't -- I</p> <p>10 don't get into the weeds.</p> <p>11 Q Okay. What is Next Gen Beverages LLC?</p> <p>12 A It is a wholly owned subsidiary of Labor</p> <p>13 Smart.</p> <p>14 Q And I think you told me a little bit</p> <p>15 earlier, but let me just -- now that we're focusing</p> <p>16 on Next Gen Beverages, what is your involvement</p> <p>17 with Next Gen beverages?</p> <p>18 A Interim CEO. Actually, hang on. Yeah,</p> <p>19 I think interim CEO. Oh, no, I take that back.</p> <p>20 There is no officers. I am a member -- a member,</p> <p>21 comanager.</p> <p>22 Q Who are the other members?</p> <p>23 A It's me and Mike Holley. There's only</p> <p>24 two of us.</p> <p>25 Q Is Mike Holley also a manager, or is he</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

14 (53 to 56)

<p style="text-align: right;">53</p> <p>1 just a member?</p> <p>2 A I don't know the distinction, sir. I'm</p> <p>3 considering them both the same.</p> <p>4 Q Okay. Why are you two the only members?</p> <p>5 A Because the goal was to make sure it was</p> <p>6 wholly owned by Labor Smart.</p> <p>7 Q Why was that the goal?</p> <p>8 A Well, because it all points back to the</p> <p>9 original goal, which is to protect the, at that</p> <p>10 time, disenfranchised owners of Labor Smart and</p> <p>11 Takeover.</p> <p>12 Q And when you say disenfranchised owners,</p> <p>13 what do you mean by that?</p> <p>14 A None of the requirements were being met</p> <p>15 to get the company trading.</p> <p>16 Q Such as what?</p> <p>17 A Audits for financials, forming an</p> <p>18 official board, verifying profile on OTC Markets.</p> <p>19 The list is horrendous.</p> <p>20 Q OT -- what did -- the last thing you</p> <p>21 said -- OTC Markets. What --</p> <p>22 A Yes, sir. OTC Markets is where the</p> <p>23 parent company trades.</p> <p>24 Q What did you say before OTC Markets? I</p> <p>25 didn't catch the phrase. You said something OTC</p>	<p style="text-align: right;">55</p> <p>1 disenfranchised owners, et cetera, et cetera.</p> <p>2 A Correct. For Labor Smart. Not Next</p> <p>3 Gen, for Labor Smart.</p> <p>4 Q Okay. So that's where I'm getting</p> <p>5 tripped up. How does Next Gen Beverages help you</p> <p>6 do any of what you were trying to accomplish?</p> <p>7 A Well, because Labor Smart needed a</p> <p>8 company that could survive an exchange in commerce</p> <p>9 so that its stock would be tradable.</p> <p>10 Q And Takeover, by this point, had already</p> <p>11 been going for, if my math's right, about two and a</p> <p>12 half years; correct?</p> <p>13 A No. Incorrect.</p> <p>14 Q What's incorrect about it?</p> <p>15 A It stopped going.</p> <p>16 Q Okay. Well, Takeover was formed in</p> <p>17 early 2021. We agree on that.</p> <p>18 A Correct. Correct.</p> <p>19 Q And Takeover for a time was operating;</p> <p>20 correct?</p> <p>21 A For a time.</p> <p>22 Q And so why not do all of those steps</p> <p>23 that you just described for Takeover?</p> <p>24 A We did, to the best of our ability, but</p> <p>25 Takeover was being sued. It had lost its</p>
<p style="text-align: right;">54</p> <p>1 Markets.</p> <p>2 A I don't recall. Should we ask our</p> <p>3 lovely court reporter for --</p> <p>4 Q That's okay. I'll ask it a different --</p> <p>5 you said the company, to get trading again, needed</p> <p>6 audits and something. It needed to do something</p> <p>7 with OTC Markets. What was that?</p> <p>8 A Oh. Oh, a verified profile. Like,</p> <p>9 there's an official checklist that's required in</p> <p>10 order to get trading on OTC Markets. None of those</p> <p>11 were being done. We did them to protect the owners</p> <p>12 of Takeover and Labor Smart.</p> <p>13 Q So you were doing all of this on behalf</p> <p>14 of Next Gen Beverages; correct?</p> <p>15 MR. BENNION: Objection to the extent it</p> <p>16 may call for a legal conclusion.</p> <p>17 A No. We were doing it on behalf of the</p> <p>18 shareholders of Takeover, Labor Smart.</p> <p>19 Q So that's where I'm getting tripped up</p> <p>20 because what led to this question was I was asking</p> <p>21 you about Next Gen Beverages. And I said, Why were</p> <p>22 you and Mr. Holley the only members?</p> <p>23 And then you went on to say, Well, the</p> <p>24 goal is to make sure that it was wholly owned by</p> <p>25 Labor Smart; and then you said to protect the</p>	<p style="text-align: right;">56</p> <p>1 trademark. It had lost its Amazon store. It had</p> <p>2 lost its website. It had no money. It had</p> <p>3 absolutely no viable path to success in commerce.</p> <p>4 Q So you said a few things there: Let me</p> <p>5 try and unpack it. Sticking with the trademark</p> <p>6 issue.</p> <p>7 A Mm-hmm.</p> <p>8 Q Takeover could have gotten another</p> <p>9 trademark; correct?</p> <p>10 MR. BENNION: Objection to the extent it</p> <p>11 may call for a legal conclusion.</p> <p>12 A It's possible.</p> <p>13 Q Did you ever attempt to obtain another</p> <p>14 trademark for Takeover?</p> <p>15 A I don't recall. I'm sure, at the</p> <p>16 beginning, yes, we did. In fact, Mr. Harvey, we</p> <p>17 fought valiantly for the NXTLVL trademark and lost</p> <p>18 that in litigation.</p> <p>19 Q Sure. But, for example, my</p> <p>20 understanding is that Next Gen operates under the</p> <p>21 brand name of LOCK'D IN, which is L-O-C-K'D I-N; is</p> <p>22 that correct?</p> <p>23 A Yes. That's one of the brands.</p> <p>24 Q And is that trade -- LOCK'D IN -- is</p> <p>25 that trademarked?</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

15 (57 to 60)

<p style="text-align: right;">57</p> <p>1 A It is.</p> <p>2 Q So why not trademark LOCK'D IN for</p> <p>3 Takeover?</p> <p>4 A I think the decision was made, in our</p> <p>5 best judgment, that Takeover could not be saved.</p> <p>6 It's like, why take anything viable and put it in</p> <p>7 an inviable vehicle?</p> <p>8 Q When Next Gen -- well, when was Next Gen</p> <p>9 formed?</p> <p>10 A I'm thinking, again, Juneish '23.</p> <p>11 Q June of 2023?</p> <p>12 A Juneish. Don't hold me to it, please.</p> <p>13 Q At that time Takeover's liabilities were</p> <p>14 greater than its assets; correct?</p> <p>15 A Substantially.</p> <p>16 Q And even though Takeover could have</p> <p>17 trademarked LOCK'D IN, neither you nor anyone else</p> <p>18 from Takeover tried to trademark LOCK'D IN for</p> <p>19 Takeover; correct?</p> <p>20 A I don't recall.</p> <p>21 MR. BENNION: Objection. Calls for a</p> <p>22 legal conclusion. Lacks foundation.</p> <p>23 Go ahead.</p> <p>24 A I don't recall. We may have.</p> <p>25 Q Well, if Next Gen was able to get the</p>	<p style="text-align: right;">58</p> <p>1 trademark for LOCK'D IN, why would Takeover not</p> <p>2 have been able to do the same?</p> <p>3 A I don't recall whether we officially</p> <p>4 tried to get LOCK'D IN under Takeover. Takeover</p> <p>5 was substantially damaged, tarnished, horrible</p> <p>6 name, and embroiled in multiple cases of</p> <p>7 litigation. Those things do not allow for federal</p> <p>8 trademarks, federal licensing, federal trading,</p> <p>9 trading on the OTC Markets.</p> <p>10 Q Why do you say that it doesn't allow for</p> <p>11 it?</p> <p>12 A Because they scrutinize companies. Like</p> <p>13 there's standards.</p> <p>14 Q Say some more on that. I'm not quite</p> <p>15 following you.</p> <p>16 MR. BENNION: Objection. Vague and</p> <p>17 ambiguous. Lacks foundation.</p> <p>18 Go ahead.</p> <p>19 A Like, there's standards that companies</p> <p>20 are held to in order to apply for bank accounts,</p> <p>21 trading accounts, audits. Like, for example,</p> <p>22 Mr. Harvey, Takeover -- there was no taxes filed</p> <p>23 for Takeover.</p> <p>24 Q Why not?</p> <p>25 AI -- because of the incompetence of the</p>	<p style="text-align: right;">59</p> <p>1 previous manager.</p> <p>2 Q When you came along, did you attempt to</p> <p>3 rehabilitate the taxes?</p> <p>4 A Yeah. Not only did I attempt to, I did.</p> <p>5 I got it done.</p> <p>6 Q So after that hurdle was cleared, why</p> <p>7 couldn't you move forward with trying to trademark</p> <p>8 LOCK'D IN or any other name?</p> <p>9 A Just way too many hurdles.</p> <p>10 Q Such as?</p> <p>11 A Repeating myself, embroiled in</p> <p>12 litigation for starters, substantially upside down</p> <p>13 in debt, upside down millions and millions of</p> <p>14 dollars and didn't see any ability to create</p> <p>15 investor -- an environment where an investor would</p> <p>16 want to come in and capitalize a company that was</p> <p>17 so far upside down, tarnished, damaged, wounded,</p> <p>18 kicked.</p> <p>19 Q Did you consider changing the name of</p> <p>20 Takeover?</p> <p>21 A Like -- no. I think that would be, I</p> <p>22 would almost suggest, illegal in my mind.</p> <p>23 Q The same individuals who were involved</p> <p>24 in Next Gen Beverages were the same, for the most</p> <p>25 part, individuals who were involved with Takeover;</p>	<p style="text-align: right;">60</p> <p>1 correct?</p> <p>2 A No. Different. Mostly a different cast</p> <p>3 of characters.</p> <p>4 Q Well, yourself and Mr. Holly -- you were</p> <p>5 both involved with Takeover; correct?</p> <p>6 A Well, yeah, I guess. Me, for a very</p> <p>7 short period, him from the beginning. Yes.</p> <p>8 Q Okay. And you were also involved with</p> <p>9 Next Gen; correct?</p> <p>10 A Correct.</p> <p>11 Q And when you were attempting to move</p> <p>12 forward with Next Gen and make it profitable, you</p> <p>13 did things on behalf of Next Gen; correct?</p> <p>14 A Correct.</p> <p>15 Q And when you were doing those things, by</p> <p>16 definition, you were not spending that time</p> <p>17 resurrecting Takeover; true?</p> <p>18 MR. BENNION: Objection. Vague and</p> <p>19 ambiguous. Lacks foundation.</p> <p>20 Go ahead.</p> <p>21 A That's a -- it sounds like a tricky</p> <p>22 question, Mr. Harvey. Everything we did for Next</p> <p>23 Gen benefited the owners of Takeover. So one might</p> <p>24 say everything we did here benefited here. Does</p> <p>25 that mean that they were done simultaneously, no,</p>
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Transcript of Thomas Zarro
Conducted on November 21, 2024

16 (61 to 64)

<p style="text-align: right;">61</p> <p>1 but they benefited each other. I'm not trying to</p> <p>2 get cute, but --</p> <p>3 Q Well, let me ask it more direct. Did</p> <p>4 anything you were doing with Next Gen Beverages</p> <p>5 lead to dollars being placed in Takeover's bank</p> <p>6 account?</p> <p>7 A Yes.</p> <p>8 MR. BENNION: Objection. Vague and</p> <p>9 ambiguous.</p> <p>10 Go ahead.</p> <p>11 Q Okay. Explain that to me. How?</p> <p>12 A Well, because we've had to fund it</p> <p>13 legally for this defense. So we have had to seek</p> <p>14 investment, if you will, into the parent company so</p> <p>15 that we could fund its subsidiaries and keep them</p> <p>16 viable and hope something could, you know, change,</p> <p>17 break free, be sold, monetized.</p> <p>18 Q But you're referring to Labor Smart with</p> <p>19 that last answer, not Next Gen Beverages; correct?</p> <p>20 A Yeah.</p> <p>21 Q So in terms of -- let's say you spent an</p> <p>22 hour on a Tuesday doing work for Next Gen</p> <p>23 Beverages. Are you with me?</p> <p>24 A Yes.</p> <p>25 Q How would that lead to dollars being</p>	<p style="text-align: right;">63</p> <p>1 either; correct?</p> <p>2 MR. BENNION: Objection. Calls for</p> <p>3 speculation.</p> <p>4 A False. Incorrect.</p> <p>5 Q How is that false?</p> <p>6 A Because if there was no parent company</p> <p>7 being protected by the commerce of its other</p> <p>8 subsidiaries, Takeover would be folded. The parent</p> <p>9 company would be folded, and there would be no</p> <p>10 ability to pay any creditors.</p> <p>11 Q What are you doing today to</p> <p>12 affirmatively grow Takeover?</p> <p>13 A We're growing its parent company.</p> <p>14 Q But to specifically grow Takeover?</p> <p>15 MR. BENNION: Objection. Calls for a</p> <p>16 legal conclusion. Vague and ambiguous.</p> <p>17 A When you say the word grow, that's a</p> <p>18 subjective word. If you're saying what are we</p> <p>19 doing today to make Takeover better, things like</p> <p>20 this -- trying to settle lawsuits, trying to</p> <p>21 eliminate debt on its books.</p> <p>22 Q Are you doing anything today to bring in</p> <p>23 dollars into Takeover?</p> <p>24 MR. BENNION: Same objection to this</p> <p>25 entire line of questioning.</p>
<p style="text-align: right;">62</p> <p>1 placed in Takeover's bank account directly?</p> <p>2 MR. BENNION: Objection. Vague and</p> <p>3 ambiguous. Lacks foundation.</p> <p>4 Go ahead.</p> <p>5 A Well, everything we do for Next Gen is</p> <p>6 for the benefit of Labor Smart and its</p> <p>7 shareholders. Because we have that benefit, we're</p> <p>8 able to function. And because we're able to</p> <p>9 function, we're able to fund its subsidiaries --</p> <p>10 Takeover.</p> <p>11 Q And when you say fund it, other than</p> <p>12 funding the litigation, how else is Labor Smart</p> <p>13 funding it?</p> <p>14 A Like what else does the money go for?</p> <p>15 Q Sure.</p> <p>16 A Accounting, legal, compliance.</p> <p>17 Q Anything to actually grow Takeover?</p> <p>18 MR. BENNION: Objection. Vague and</p> <p>19 ambiguous. Calls for speculation. Lacks</p> <p>20 foundation.</p> <p>21 Go ahead.</p> <p>22 A Anything to grow Takeover? No. I can't</p> <p>23 specifically point to anything.</p> <p>24 Q And anything that you do for Next Gen</p> <p>25 doesn't specifically benefit Takeover's creditors</p>	<p style="text-align: right;">64</p> <p>1 A Once again, Mr. Harvey, yes, but we have</p> <p>2 to protect its sister subsidiaries, its parent, so</p> <p>3 that we can continue to fund it in hopes that maybe</p> <p>4 something will break free.</p> <p>5 Q Are you doing anything today to increase</p> <p>6 Takeover's sales?</p> <p>7 A No.</p> <p>8 Q When is the last time you did something</p> <p>9 to increase Takeover's sales?</p> <p>10 A January, February, March, April of '23</p> <p>11 would probably be the last, you know. It's my</p> <p>12 guess, but I don't recall specifically. I would</p> <p>13 say early '23 would be a better answer.</p> <p>14 Q When is the last time you did anything</p> <p>15 to increase Takeover's profit?</p> <p>16 MR. BENNION: Objection. Calls for a</p> <p>17 legal conclusion. Vague and ambiguous.</p> <p>18 A I don't know how to answer the question.</p> <p>19 When there's no revenue, how can you have profit?</p> <p>20 Q Well, I -- my first -- my question</p> <p>21 before that was about sales. I wanted to broaden</p> <p>22 it a little bit.</p> <p>23 A No sales, no profit.</p> <p>24 Q Okay. When's the last time you were</p> <p>25 aware of -- not just you, but anybody doing</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

17 (65 to 68)

65	<p>1 anything to increase Takeover's sales?</p> <p>2 A I think early '23.</p> <p>3 Q And what specifically was done at that</p> <p>4 time?</p> <p>5 A I think resurrect everything that we</p> <p>6 thought was there but wasn't. For example,</p> <p>7 Mr. Harvey, save the trademark, get the trade --</p> <p>8 get the website up and running, get the Amazon</p> <p>9 store up and running, get the social media up and</p> <p>10 running, to do all the things that the company once</p> <p>11 had that -- or -- excuse me -- that the company</p> <p>12 thought it had but didn't. So, yes, early '23 was</p> <p>13 a mad scramble to try and save Takeover, of course.</p> <p>14 Q And why did you and/or others stop doing</p> <p>15 those things?</p> <p>16 A Because it was just a futile task.</p> <p>17 Q And you understood at that time that</p> <p>18 Takeover had creditors; correct?</p> <p>19 A Yes.</p> <p>20 Q Including Mr. Deppoleto?</p> <p>21 A Absolutely. We were in contact often.</p> <p>22 Q Circling back to Next Gen, you told me</p> <p>23 that you are a member/manager of Next Gen; correct?</p> <p>24 A I think technically, yes.</p> <p>25 Q Have you had any other roles with Next</p>	67	<p>1 in 2024.</p> <p>2 Q And why did you receive those shares?</p> <p>3 What specifically was the purpose?</p> <p>4 A I think as incentive to stay involved</p> <p>5 and try to get it turned into something. The</p> <p>6 company has no cash. So --</p> <p>7 Q Now you said you've been an investor in</p> <p>8 Labor Smart since 2013-2014. So fair to assume you</p> <p>9 had shares since at least that point in Labor</p> <p>10 Smart?</p> <p>11 A Yes.</p> <p>12 Q And those 400 million shares, that you</p> <p>13 just described, those were in addition to whatever</p> <p>14 you held before you received them; true?</p> <p>15 A Yes.</p> <p>16 Q How many shares do you own in Labor</p> <p>17 Smart today?</p> <p>18 A I could not tell you, Mr. Harvey.</p> <p>19 Q Do you have even a ballpark?</p> <p>20 A Yes. My assumption is 1.3 billion.</p> <p>21 Q So if my math, which is not good, but if</p> <p>22 it's sort of --</p> <p>23 A Actually --</p> <p>24 Q -- good --</p> <p>25 A -- can I go -- I need to clarify</p>
66	<p>1 Gen? COO? CEO? anything like that? employee?</p> <p>2 Q Just the multiple hats that anybody</p> <p>3 wears in a small, underfunded company.</p> <p>4 Q But in terms of formal titles --</p> <p>5 A Yes.</p> <p>6 Q -- as far as you know, you've only been</p> <p>7 a member/manager? Yes?</p> <p>8 A Yes. I'm sorry.</p> <p>9 Q Thank you. Have you received any</p> <p>10 compensation from Next Gen Beverages?</p> <p>11 A None. Cash compensation, no.</p> <p>12 Q Other than cash or --</p> <p>13 A Cash compensation, no; shares, yes.</p> <p>14 Q And these were shares in Next Gen</p> <p>15 Beverages or Labor Smart?</p> <p>16 A Labor Smart as Next Gen Beverages is</p> <p>17 wholly owned.</p> <p>18 Q How many shares did you receive?</p> <p>19 A 400 million.</p> <p>20 Q How much are those worth today?</p> <p>21 A 600,000, maybe, dollars.</p> <p>22 Q When did you --</p> <p>23 A Six to 800,000.</p> <p>24 Q When did you receive those?</p> <p>25 A I really don't know. I think sometime</p>	68	<p>1 something.</p> <p>2 MR. BENNION: Can you just wait till he</p> <p>3 asks the question?</p> <p>4 THE WITNESS: I'm sorry. Go ahead,</p> <p>5 Mr. Harvey.</p> <p>6 MR. HARVEY: It sounded like you wanted</p> <p>7 to clarify something.</p> <p>8 Q Did you want to clarify something?</p> <p>9 A Not if I'm going to be in trouble. I</p> <p>10 need to take my answer back. I don't have 1.3</p> <p>11 billion shares of common shares of Labor Smart. I</p> <p>12 think I have about 850 -- 850,000 -- 850 million</p> <p>13 common shares.</p> <p>14 Q And you said common shares. Is there a</p> <p>15 different type of share that you own?</p> <p>16 A We can't get anything past you, can we?</p> <p>17 Yes.</p> <p>18 Q What's the other?</p> <p>19 A The preferred eight shares.</p> <p>20 Q And what's a preferred eight share?</p> <p>21 A A preferred eight share converts into</p> <p>22 100 million common shares, and I believe I own four</p> <p>23 of those.</p> <p>24 Q What would be the event that would</p> <p>25 trigger the converting?</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

18 (69 to 72)

<p style="text-align: right;">69</p> <p>1 A I believe it's upon my request as the</p> <p>2 shareholder.</p> <p>3 Q When did you receive those preferred</p> <p>4 eight shares?</p> <p>5 A I believe that was earlier in '24. I</p> <p>6 don't know exactly when.</p> <p>7 Q Okay. So if we're just talking about</p> <p>8 the common shares, it sounds like 850 million if my</p> <p>9 math is right. Based on what you told me about the</p> <p>10 400 million, those are probably worth ballpark 1.2</p> <p>11 to 1.6 million?</p> <p>12 MR. BENNION: I'm going to state an</p> <p>13 objection. Lacks foundation. May call for</p> <p>14 speculation.</p> <p>15 Go ahead.</p> <p>16 A Approximately. Yes.</p> <p>17 Q And then you've got the four preferred</p> <p>18 eight shares, a hundred million if and when you</p> <p>19 convert them. So that's probably another 600- to</p> <p>20 \$800,000; correct?</p> <p>21 A Yes. Yes.</p> <p>22 Q Okay. So other than the shares in Labor</p> <p>23 Smart, I asked you if you got compensation from</p> <p>24 Next Gen, and you said no cash, but you did get</p> <p>25 shares in Labor Smart. Did you receive any other</p>	<p style="text-align: right;">71</p> <p>1 Q Are there any current directors of Next</p> <p>2 Gen Beverages?</p> <p>3 A Not to my knowledge.</p> <p>4 Q How did Next Gen Beverages obtain its</p> <p>5 start-up capital?</p> <p>6 A I'm sure I funded it to some degree.</p> <p>7 Q What do you mean by that?</p> <p>8 A I am sure I sent money into the Next Gen</p> <p>9 bank account to begin its operations.</p> <p>10 Q How much did you send?</p> <p>11 A I do not recall.</p> <p>12 Q And you said some of it. Who else?</p> <p>13 A Well, we've had various investors into</p> <p>14 Labor Smart that we've used for Next Gen.</p> <p>15 Q Who else invested?</p> <p>16 A Luis --</p> <p>17 Q Sequeira?</p> <p>18 A Yeah. Mike Araghi, myself. The board</p> <p>19 primarily, Mr. Harvey. Mr. Fitzgerald.</p> <p>20 Q The board of Labor Smart?</p> <p>21 A Correct. Correct.</p> <p>22 Q How much did Mr. Sequeira --</p> <p>23 A I don't recall.</p> <p>24 Q How about Mr. Araghi? How much did he</p> <p>25 invest?</p>
<p style="text-align: right;">70</p> <p>1 compensation from Next Gen?</p> <p>2 A Not to my -- no, not to my knowledge.</p> <p>3 Q Okay. Are there any other current</p> <p>4 officers of Next Gen Beverages?</p> <p>5 A Mike Araghi is the president of Next Gen</p> <p>6 Beverages.</p> <p>7 Q Do you happen to know how to spell his</p> <p>8 last name?</p> <p>9 A I do.</p> <p>10 Q How do you spell it?</p> <p>11 A A-R-A-G-H-I.</p> <p>12 Q How long has he been the president of</p> <p>13 Next Gen?</p> <p>14 A Since early or mid-2024.</p> <p>15 Q Who was the president before Mr. Araghi?</p> <p>16 A I don't think we named one.</p> <p>17 Q Do you know how much he's paid?</p> <p>18 A He is not paid in cash.</p> <p>19 Q Did he also receive shares, or is he</p> <p>20 also receiving shares?</p> <p>21 A Yes. I don't think that's been</p> <p>22 formalized.</p> <p>23 Q Okay. Other than Mr. Araghi, are there</p> <p>24 any other current officers of Next Gen?</p> <p>25 A Not to my knowledge.</p>	<p style="text-align: right;">72</p> <p>1 A I don't have a specific number.</p> <p>2 Q Ballpark is fine.</p> <p>3 A One million.</p> <p>4 Q Dollars?</p> <p>5 A Yes.</p> <p>6 Q How about Mr. Fitzgerald?</p> <p>7 A 400,000.</p> <p>8 Q Other than Mr. -- well, yourself,</p> <p>9 Mr. Sequeira, Mr. Araghi, and Mr. Fitzgerald, any</p> <p>10 other investors in Next Gen?</p> <p>11 A I think Mike Holley.</p> <p>12 Q How much did he invest?</p> <p>13 A I think 70,000.</p> <p>14 THE WITNESS: That's me. I apologize.</p> <p>15 I think that's my phone.</p> <p>16 MR. HARVEY: Oh, okay. No problem.</p> <p>17 Q Anyone else?</p> <p>18 A I don't recall. Yes. I'm sure there's</p> <p>19 others. I don't recall the names and amounts and</p> <p>20 -- nothing monumental.</p> <p>21 Q Who would have the records for those</p> <p>22 investments?</p> <p>23 A Mike Holley, the transfer agent or the</p> <p>24 transfer agent?</p> <p>25 Q Do you think Mike Holley is the transfer</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

19 (73 to 76)

<p style="text-align: right;">73</p> <p>1 agent?</p> <p>2 A No, no, no. Mike Holley or the transfer</p> <p>3 agent. The transfer agent is Clear Trust as we've</p> <p>4 discussed.</p> <p>5 Q Okay. What products does Next Gen</p> <p>6 Beverages sell?</p> <p>7 A We sell nootropic energy drinks,</p> <p>8 nootropic coffee, hydrogen water, stick packs.</p> <p>9 Q What's a stick pack?</p> <p>10 A Those electrolyte stick packs that you</p> <p>11 mix with water and they give you minerals and</p> <p>12 nutrient hydration.</p> <p>13 Q Okay. Anything else?</p> <p>14 A Merchandise -- hats, shirts.</p> <p>15 Q Anything else?</p> <p>16 A Not off the top of my head.</p> <p>17 Q And they sell those all under the LOCK'D</p> <p>18 IN brand name; correct?</p> <p>19 A And -- oh, and artesian water.</p> <p>20 Q Okay.</p> <p>21 A And alkaline water. Forgive me.</p> <p>22 Q No problem. But all those are sold</p> <p>23 under the LOCK'D IN brand name; correct?</p> <p>24 A Yes. Yes.</p> <p>25 Q And at least some of those products are</p>	<p style="text-align: right;">75</p> <p>1 A I don't -- I don't recall.</p> <p>2 Q Who would know the answer to that?</p> <p>3 A Mike Holley would have the agreements.</p> <p>4 Q So, to your knowledge, it's possible</p> <p>5 that Mr. Pacquiao entered into a contract with Next</p> <p>6 Gen? You just can't say one way or another?</p> <p>7 A Correct.</p> <p>8 Q And so if there was an agreement, you</p> <p>9 don't know when it would have been executed?</p> <p>10 A Not specifically. I would say somewhere</p> <p>11 in that early '23, maybe mid-23.</p> <p>12 Q Does Mr. Pacquiao promote Next Gen</p> <p>13 products?</p> <p>14 A I would ask for you to define promote.</p> <p>15 Q As broad as you can possibly define it,</p> <p>16 does Mr. Pacquiao do anything to promote the sales</p> <p>17 of Next Gen or -- I'm sorry -- not Next Gen, LOCK'D</p> <p>18 IN products or Next Gen Beverage products?</p> <p>19 A I would think so. Yes.</p> <p>20 Q What specifically does he do?</p> <p>21 A He would wear our shirt.</p> <p>22 Q Okay. Is that something he would do if</p> <p>23 he wasn't being compensated by Next Gen?</p> <p>24 A Yeah. I think so. I think he likes it.</p> <p>25 I really do.</p>
<p style="text-align: right;">74</p> <p>1 similar to the NXTLVL products; correct?</p> <p>2 A No. We don't sell energy shots.</p> <p>3 Q Hydrogen water is the same though;</p> <p>4 correct?</p> <p>5 A Yeah. But NXTLVL wasn't selling</p> <p>6 hydrogen water.</p> <p>7 Q Okay. At some point, though, NXTLVL was</p> <p>8 selling hydrogen water; correct?</p> <p>9 A At the very beginning, yeah, and it was</p> <p>10 discontinued.</p> <p>11 Q Okay. Has Takeover transferred any</p> <p>12 assets to Next Gen Beverages?</p> <p>13 MR. BENNION: Objection to the extent it</p> <p>14 may call for a legal conclusion. Lacks foundation.</p> <p>15 Go ahead.</p> <p>16 A No, not to my knowledge.</p> <p>17 Q Has Takeover transferred any trade</p> <p>18 secrets to Next Gen beverages?</p> <p>19 A Not to my knowledge.</p> <p>20 Q Did Next Gen enter into an agreement</p> <p>21 with Manny Pacquiao?</p> <p>22 A I don't know how to answer that. I</p> <p>23 think you need to be more specific, Mr. Harvey.</p> <p>24 Q Does Next Gen have a contract with</p> <p>25 Manny Pacquiao?</p>	<p style="text-align: right;">76</p> <p>1 Q Okay. In any event, your testimony is</p> <p>2 that Mike Holley would be the more appropriate</p> <p>3 person to ask about contracts with Manny Pacquiao?</p> <p>4 A He would. He would, Mr. Harvey.</p> <p>5 Q Okay.</p> <p>6 MR. BENNION: And, Counsel, just for</p> <p>7 clarification, we're -- Mr. Zarro's here as a -- as</p> <p>8 the -- for deposition topics for Next Gen and for</p> <p>9 Takeover, and we're kind of crossing --</p> <p>10 MR. HARVEY: We're -- no. So this is</p> <p>11 just your personal deposition. Once your personal</p> <p>12 deposition is done, we're going to do a new</p> <p>13 transcript for your Takeover topics. Then we're</p> <p>14 going to do a new transcript for your Next Gen</p> <p>15 topics where you're the corporate representative</p> <p>16 for both of those second and third ones. So right</p> <p>17 now I'm just asking you in your individual</p> <p>18 capacity.</p> <p>19 THE WITNESS: I'm not sure I can answer.</p> <p>20 MR. BENNION: No. No. There's no</p> <p>21 question before you.</p> <p>22 THE WITNESS: Oh.</p> <p>23 MR. HARVEY: So hopefully that clarifies</p> <p>24 things.</p> <p>25 BY MR. HARVEY:</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

20 (77 to 80)

77	<p>1 Q Is, to your knowledge, Manny Pacquiao</p> <p>2 featured on LOCK'D IN products?</p> <p>3 A Yes.</p> <p>4 Q What products?</p> <p>5 A The hydrogen water. The hydrogen water</p> <p>6 and a nootropic drink.</p> <p>7 Q Which one?</p> <p>8 A The hydrogen water, unflavored;</p> <p>9 nootropic, pineapple coconut.</p> <p>10 Q What is a nootropic drink, by the way?</p> <p>11 A An energy drink, but it's all natural.</p> <p>12 Q Okay. Did LOCK'D IN sell NXTLVL</p> <p>13 products on the LOCK'D IN website?</p> <p>14 A There was -- the answer is no.</p> <p>15 MR. HARVEY: Okay. I'm going to hand</p> <p>16 you your first exhibit of the day.</p> <p>17 THE WITNESS: Yeah. No problem.</p> <p>18 MR. HARVEY: Now this has previously</p> <p>19 been marked as Exhibit 1 in Mr. Holley's</p> <p>20 deposition. That's why it's got the deposition</p> <p>21 sticker at the bottom.</p> <p>22 (Holley Exhibit 1 was marked for</p> <p>23 identification.)</p> <p>24 If you can flip, the first page of that</p> <p>25 is obviously a Husch Blackwell letter. It's dated</p>	79	<p>1 for those products?</p> <p>2 A Did LOCK'D IN pay Takeover for those</p> <p>3 products? Well, no products sold. So I don't know</p> <p>4 how to answer that.</p> <p>5 Q Did Next Gen pay Takeover for the</p> <p>6 products being advertised on the website?</p> <p>7 MR. BENNION: Objection. Vague and</p> <p>8 ambiguous. May call for a legal conclusion.</p> <p>9 THE WITNESS: Mr. Harvey, forgive me.</p> <p>10 Can you please ask one more time.</p> <p>11 MR. HARVEY: Sure.</p> <p>12 Q I'll come at it this way: Maybe it will</p> <p>13 be a little easier to understand. Next Gen/LOCK'D</p> <p>14 IN wouldn't advertise products on its website</p> <p>15 unless it actually had product that it could ship</p> <p>16 if an individual clicked purchase on the website;</p> <p>17 true?</p> <p>18 A True.</p> <p>19 Q It'd be fraud otherwise; correct?</p> <p>20 A I can't define fraud.</p> <p>21 MR. BENNION: Objection. May call for a</p> <p>22 legal conclusion.</p> <p>23 Q So the fact that, as we see in Exhibit</p> <p>24 Holly 1, NXTLVL products were advertised on the</p> <p>25 LOCK'D IN website, which means that LOCK'D IN/Next</p>
78	<p>1 June 14, 2023. If you could flip over a couple of</p> <p>2 pages, probably about four pages in, maybe five</p> <p>3 pages in.</p> <p>4 THE REPORTER: Just try to be careful of</p> <p>5 the microphone.</p> <p>6 THE WITNESS: I'm sorry.</p> <p>7 Okay.</p> <p>8 MR. HARVEY: Keep going. And then this</p> <p>9 is a screen capture that was taken from the LOCK'D</p> <p>10 IN website.</p> <p>11 THE WITNESS: Mm-hmm.</p> <p>12 BY MR. HARVEY:</p> <p>13 Q If you go to page 2 of 4 in the bottom</p> <p>14 right corner -- do you see that?</p> <p>15 A Yes.</p> <p>16 Q Those are NXTLVL products being sold on</p> <p>17 the LOCK'D IN website; correct?</p> <p>18 A Correct.</p> <p>19 Q Okay. So LOCK'D IN did, in fact, sell</p> <p>20 NXTLVL products on the LOCK'D IN website; correct?</p> <p>21 A No.</p> <p>22 Q It advertised for sale NXTLVL products</p> <p>23 on the LOCK'D IN website; correct?</p> <p>24 A Yes.</p> <p>25 Q Okay. And did LOCK'D IN pay Takeover</p>	80	<p>1 Gen had to have had NXTLVL products, that it could</p> <p>2 have fulfilled an order had a customer purchased;</p> <p>3 true?</p> <p>4 A Orders could have been fulfilled. But</p> <p>5 this -- if you clicked on that, it would have taken</p> <p>6 you to the Takeover website, and the money would</p> <p>7 have gone to Takeover. So I know you're trying to,</p> <p>8 you know, combine Next Gen and Takeover. They're</p> <p>9 very different, and it even says Takeover</p> <p>10 Industries on it if you look.</p> <p>11 Q Let me ask it this way: LOCK'D IN</p> <p>12 products that are sold -- is there a central</p> <p>13 warehouse that houses all of the LOCK'D IN</p> <p>14 products?</p> <p>15 A Yes.</p> <p>16 Q Okay. And so at this time that the</p> <p>17 NXTLVL products were being advertised on the LOCK'D</p> <p>18 IN website, were there NXTLVL products in that same</p> <p>19 warehouse, or were they kept somewhere else?</p> <p>20 A Same warehouse.</p> <p>21 Q Okay. How -- well, was Takeover paying</p> <p>22 -- well, who owns that warehouse?</p> <p>23 A A fulfillment center in Georgia.</p> <p>24 Q Okay. So Next Gen doesn't own it;</p> <p>25 correct?</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

21 (81 to 84)

81	<p>1 A Correct.</p> <p>2 Q Takeover doesn't own it; correct?</p> <p>3 A Correct.</p> <p>4 Q How did Next Gen go about obtaining</p> <p>5 NXTLVL products in the same warehouse that Next Gen</p> <p>6 was paying for?</p> <p>7 MR. BENNION: I state an objection to</p> <p>8 the extent it might be vague and ambiguous.</p> <p>9 Go ahead.</p> <p>10 THE WITNESS: Please ask the question</p> <p>11 one more time, Mr. Harvey.</p> <p>12 MR. HARVEY: Sure.</p> <p>13 Q As of June 14, 2023, who was leasing the</p> <p>14 warehouse space? Was it Takeover cutting a check</p> <p>15 or sending a wire transfer each month, or was it</p> <p>16 Next Gen?</p> <p>17 A I think it was Next Gen.</p> <p>18 Q Okay. So how did it come to be that</p> <p>19 Next Gen ended up with NXTLVL product in the</p> <p>20 warehouse that Next Gen was leasing?</p> <p>21 A The NXTLVL product was purchased by me</p> <p>22 and combined at that warehouse for the purpose of</p> <p>23 benefiting Takeover.</p> <p>24 Q So you said a couple of things there, I</p> <p>25 think. I just want to make sure that I have them.</p>	83	<p>1 with Takeover was not really owned by Takeover. It</p> <p>2 was owned by the previous management, previous</p> <p>3 manager's wife.</p> <p>4 Q I'm not sure I'm tracking. Can you say</p> <p>5 a little more on that.</p> <p>6 A It's confusing, Mr. Harvey. The</p> <p>7 trademarks, the websites, the Amazon stores, all</p> <p>8 that stuff was not in Takeover's name. It was in</p> <p>9 individual contractors that were set up by the</p> <p>10 previous manager.</p> <p>11 Q As of June 2023?</p> <p>12 A As of when they started in '21, '22.</p> <p>13 Q I get it was when they started.</p> <p>14 A Yeah.</p> <p>15 Q But I'm saying, as of June 2023, was</p> <p>16 that still the case?</p> <p>17 A Yeah. Everything was owned by them. We</p> <p>18 never -- Takeover -- we were never able to get all</p> <p>19 of that information and all of those rights, if you</p> <p>20 will, transferred so that we could monetize and</p> <p>21 grow that business specifically. So, no. The</p> <p>22 answer to your question is it did not have a site,</p> <p>23 per se, to sell its products. It didn't have the</p> <p>24 social media presence to sell its products. That</p> <p>25 was all privately held by individuals.</p>
82	<p>1 Next Gen never paid Takeover for any NXTLVL</p> <p>2 products; true?</p> <p>3 A Say it again.</p> <p>4 Q Next Gen never paid Takeover for NXTLVL</p> <p>5 products; true?</p> <p>6 A Well, Takeover has its own bank account.</p> <p>7 So if anything was sold for Takeover, it went into</p> <p>8 the Takeover bank account.</p> <p>9 Q I'm asking a slightly different and, I</p> <p>10 think, even simpler question. Did Next Gen ever pay</p> <p>11 Takeover for NXTLVL products?</p> <p>12 A I can't -- I don't know. I don't</p> <p>13 recall. If there was any sales through Next Gen,</p> <p>14 then, yes, they would have paid Takeover, of</p> <p>15 course.</p> <p>16 Q Okay. And yet we see on this exhibit</p> <p>17 that Next Gen was advertising NXTLVL products on</p> <p>18 NXTLVL/LOCK'D IN website; correct?</p> <p>19 A Correct. For the purpose of funding</p> <p>20 Takeover. So, for example, it was just hosting</p> <p>21 Takeover products. If you clicked on it, it would</p> <p>22 go to a link for Takeover, not for Next Gen.</p> <p>23 Q Why not just leave the Takeover products</p> <p>24 on Takeover's own website?</p> <p>25 A Because everything that was associated</p>	84	<p>1 Q Oh, so now I'm officially confused.</p> <p>2 A Welcome to the club.</p> <p>3 Q So you told me a couple of times that if</p> <p>4 you clicked on these links for these NXTLVL</p> <p>5 products --</p> <p>6 A It went to the next -- it went to the</p> <p>7 Takeover bank account. Not the Takeover website,</p> <p>8 the Takeover bank account.</p> <p>9 Q So you did have control of the Takeover</p> <p>10 bank account as of June 2023? Is that what you're</p> <p>11 saying?</p> <p>12 A Define you.</p> <p>13 Q Well, how did you -- how would you be --</p> <p>14 if you didn't have control over it, how would you</p> <p>15 be --</p> <p>16 A Well, you're saying you as if it's me.</p> <p>17 I'm an individual. Takeover is a company. Next</p> <p>18 Gen is a company. Labor Smart is a company. So,</p> <p>19 yes, there was the ability for the website</p> <p>20 developers to take that clicked button and</p> <p>21 immediately push that money to the Takeover bank</p> <p>22 account.</p> <p>23 However, I believe the cease and desist</p> <p>24 immediately shut down the sales. In other words,</p> <p>25 that was only there for a very short period.</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

22 (85 to 88)

<p style="text-align: right;">85</p> <p>1 Q If not you personally, who had control</p> <p>2 over the Takeover bank account as of June 2023?</p> <p>3 A I think Mike Holley.</p> <p>4 Q Okay. And when did he obtain control</p> <p>5 over the Takeover bank account?</p> <p>6 A I don't -- I don't know specifically.</p> <p>7 My assumption is after the Arizona legal case in</p> <p>8 November or December of '22.</p> <p>9 Q And that case is still ongoing; correct?</p> <p>10 A Yeah.</p> <p>11 Q Now if we look at the website printout,</p> <p>12 the NXTLVL products are being sold -- being sold at</p> <p>13 a discount; correct?</p> <p>14 A Yes.</p> <p>15 Q Have you ever -- well, I'll back up. Do</p> <p>16 you have any personal social media channels?</p> <p>17 A Personally?</p> <p>18 Q Sure.</p> <p>19 A I mean, I have a Twitter feed. I'm</p> <p>20 Tom Zarro on Twitter if that's what you mean.</p> <p>21 Q Yeah. Or Instagram, anything like that.</p> <p>22 A Not really. Just Twitter.</p> <p>23 Q Okay. Have you ever promoted LOCK'D IN</p> <p>24 products on your Twitter account?</p> <p>25 A I'm sure.</p>	<p style="text-align: right;">86</p> <p>1 Q When did you begin promoting those</p> <p>2 products?</p> <p>3 A Probably after they were formed, like,</p> <p>4 developed. My guess, mid- to late '23.</p> <p>5 Q Did you ever promote NXTLVL products on</p> <p>6 your social media account?</p> <p>7 A I don't know. I don't recall.</p> <p>8 Q When did you first meet Toby McBride?</p> <p>9 A I've never met Toby McBride.</p> <p>10 Q When did you first meet Michael Holley?</p> <p>11 A I want to say mid-23.</p> <p>12 Q And when I say met, I mean phone as</p> <p>13 well.</p> <p>14 A Oh, phone?</p> <p>15 Q Yeah.</p> <p>16 A Oh, well, ask again for Toby McBride.</p> <p>17 Q Yeah. When did you first meet</p> <p>18 Toby McBride? Zoom, phone, anything.</p> <p>19 A Late 2021, mid-2021, when I made the</p> <p>20 investment in the company.</p> <p>21 Q And when you say investment in the</p> <p>22 company, this is what we were talking about before.</p> <p>23 You're not sure if the wire went to Takeover</p> <p>24 directly from Labor Smart; correct?</p> <p>25 A Correct.</p>
<p style="text-align: right;">87</p> <p>1 Q Okay. And what were the circumstances?</p> <p>2 Was this a phone call or --</p> <p>3 A Yeah. Just an introductory and --</p> <p>4 Q Did you speak before you invested?</p> <p>5 A I'm sure. My guess is yes.</p> <p>6 Q Did you speak to he and several other</p> <p>7 individuals on the same call, or did you have</p> <p>8 individual calls with Mr. McBride, Mr. Holley, and</p> <p>9 Mr. Tucker?</p> <p>10 A It's possible him and Mr. Tucker. I</p> <p>11 don't recall.</p> <p>12 Q Do you remember anything about the</p> <p>13 conversation?</p> <p>14 A Not specifically.</p> <p>15 Q And in terms of your first meeting with</p> <p>16 Mr. Holley, was it in that same time frame, mid- to</p> <p>17 late 2021?</p> <p>18 A No.</p> <p>19 Q When did you first interact with</p> <p>20 Mr. Holley?</p> <p>21 A I think late 2022.</p> <p>22 Q What were those circumstances?</p> <p>23 A What the hell is going on?</p> <p>24 Q Why you weren't getting paid? Is that</p> <p>25 what you mean?</p>	<p style="text-align: right;">88</p> <p>1 A Yeah. Pretty much, like.</p> <p>2 Q Okay. How about Mr. Pavlik? When did</p> <p>3 you first meet him?</p> <p>4 A Same.</p> <p>5 Q As Mr. Holley?</p> <p>6 A Yes. Yes.</p> <p>7 Q Okay. Have you ever met someone named</p> <p>8 Ryan Schadel? S-C-H-A-D-E-L.</p> <p>9 A I have.</p> <p>10 Q When did you first meet Mr. Schadel?</p> <p>11 A I think 2014 or 2015.</p> <p>12 Q What were the circumstances?</p> <p>13 A I was in Atlanta, Georgia, on a business</p> <p>14 trip. I was an investor in Labor Smart. The stock</p> <p>15 price was going down, and I wanted to understand</p> <p>16 why. So I went to his place of business to try and</p> <p>17 validate my investment.</p> <p>18 Q I don't want to pry too much into your</p> <p>19 personal affairs; so I'm going to ask this as a</p> <p>20 broad way and give you some context. You seem like</p> <p>21 you've put a lot of effort into Labor Smart,</p> <p>22 Takeover, and Next Gen over the years. Fair?</p> <p>23 A It's been consuming the last couple of</p> <p>24 years.</p> <p>25 Q Do you put this type of effort into your</p>

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23 (89 to 92)

<p style="text-align: right;">89</p> <p>1 other investments?</p> <p>2 A My ministry with Clean Shot helping</p> <p>3 those in recovery.</p> <p>4 Q And I appreciate it. I mean, your</p> <p>5 monetary investments.</p> <p>6 A No. Not like this. I mean, this is --</p> <p>7 Q And, again, I don't want to get into all</p> <p>8 the specifics of your portfolio, but is this your</p> <p>9 largest investment in Labor Smart and whatnot? Is</p> <p>10 that why you've put so much effort into it?</p> <p>11 A I think it's my largest time investment</p> <p>12 at this point. It's not my largest monetary</p> <p>13 investment.</p> <p>14 Q Okay. To your knowledge, has</p> <p>15 Mr. Schadel ever been an employee, agent, officer,</p> <p>16 or director of Takeover?</p> <p>17 A No.</p> <p>18 Q Has Mr. Schadel ever been an employee,</p> <p>19 agent, officer, or director of Next Gen?</p> <p>20 A No.</p> <p>21 Q Has Mr. Schadel been involved with Labor</p> <p>22 Smart since, let's say, April of 2021?</p> <p>23 A I don't believe. I'm sorry. Say -- ask</p> <p>24 the question again, Mr. Harvey.</p> <p>25 Q Sure. Well, let me -- I'll ask it this</p>	<p style="text-align: right;">91</p> <p>1 once it was moved out of Labor Smart, did it have a</p> <p>2 different name? Schadel, Inc. or something?</p> <p>3 A I really don't know.</p> <p>4 Q In other words, I thought you told me</p> <p>5 earlier that as of, say, mid-2021, Labor Smart's</p> <p>6 only real asset was Takeover because the staffing</p> <p>7 agency had been moved out.</p> <p>8 A Correct. That's a -- that's a correct</p> <p>9 statement.</p> <p>10 Q So it would seem, then, that the</p> <p>11 staffing agency had a different name than Labor</p> <p>12 Smart.</p> <p>13 A Quite possible.</p> <p>14 Q Okay. Let me go through these people</p> <p>15 fairly quickly --</p> <p>16 A Sure.</p> <p>17 Q -- hopefully. Do you know an individual</p> <p>18 named Mike Tzanetatos? T-Z-A-N-E-T-A-T-O-S.</p> <p>19 A I know of Mike. I've never met him.</p> <p>20 Q Okay. What's your understanding of --</p> <p>21 A He was a salesperson at Takeover.</p> <p>22 Q Have you ever spoken to him?</p> <p>23 A I have.</p> <p>24 Q When's the last time you spoke to him?</p> <p>25 A I think he congratulated me when we</p>
<p style="text-align: right;">90</p> <p>1 way: It will probably be more clear. You said</p> <p>2 that, at some point after Labor Smart acquired</p> <p>3 Takeover, Labor Smart disassociated itself from the</p> <p>4 temp staffing agency portion of the business;</p> <p>5 correct?</p> <p>6 A That's my understanding.</p> <p>7 Q When did that happen? Ballpark is fine.</p> <p>8 A I -- early '21.</p> <p>9 Q Okay.</p> <p>10 A Yeah.</p> <p>11 Q From that point on, once the temp</p> <p>12 staffing agency was moved out of Labor Smart and</p> <p>13 maybe a month later or whatever, but was</p> <p>14 Mr. Schadel at all involved with Labor Smart after</p> <p>15 the temp?</p> <p>16 A Not to my knowledge.</p> <p>17 Q Okay.</p> <p>18 A With Labor Smart --</p> <p>19 Q Or Next Gen or Takeover?</p> <p>20 A No, not in the context you're asking. I</p> <p>21 believe he owned the Labor Smart labor business.</p> <p>22 So when you say Labor Smart, there's the staffing</p> <p>23 business that he owned or retained but nothing with</p> <p>24 this company.</p> <p>25 Q But that -- is that staffing business --</p>	<p style="text-align: right;">92</p> <p>1 became fully trading in April of '24.</p> <p>2 Q And you say we. Meaning Next Gen?</p> <p>3 A Labor Smart.</p> <p>4 Q And that's trading again for Labor Smart</p> <p>5 because it had been tradable before.</p> <p>6 A It had. It had a -- it was in probation</p> <p>7 if you will.</p> <p>8 Q Okay. How about Mike Costello? Do you</p> <p>9 know Mike Costello?</p> <p>10 A I've talked to him once.</p> <p>11 Q What was the context?</p> <p>12 A Seeing if we could get him back to sell</p> <p>13 products.</p> <p>14 Q For?</p> <p>15 A For, I believe, Takeover at the</p> <p>16 beginning.</p> <p>17 Q When was this?</p> <p>18 A Probably Decemberish. Well,</p> <p>19 January-February '23 trying to resurrect Takeover.</p> <p>20 Q And he said no?</p> <p>21 A I really don't recall. I think -- I</p> <p>22 think he wanted to come back. I think the existing</p> <p>23 management at Takeover did not want him back.</p> <p>24 Q Why is that?</p> <p>25 A I don't recall. I mean, I don't know.</p>

Transcript of Thomas Zarro
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24 (93 to 96)

<p style="text-align: right;">93</p> <p>1 Q Okay. How about Maurice Salem? Do you</p> <p>2 know who Maurice Salem is?</p> <p>3 A I do.</p> <p>4 Q Who's Maurice Salem.</p> <p>5 A He's a shareholder and an investor.</p> <p>6 Q For?</p> <p>7 A Next Gen, Labor Smart.</p> <p>8 Q When did he first become a</p> <p>9 shareholder/investor?</p> <p>10 A I believe prior to 2021, I believe.</p> <p>11 Q He was an investor of Labor Smart before</p> <p>12 2021?</p> <p>13 A I don't know exactly when.</p> <p>14 Q He couldn't have been an investor in</p> <p>15 2021 for Next Gen, though, because it wasn't formed</p> <p>16 by that point.</p> <p>17 A There's no investors in Next Gen, only</p> <p>18 Labor Smart.</p> <p>19 Q Okay. Did he add additional investment</p> <p>20 once Next Gen came into being?</p> <p>21 A Yes.</p> <p>22 Q How much did he invest?</p> <p>23 A I believe 50,000.</p> <p>24 Q Does he have any formal role with Next</p> <p>25 Gen specifically?</p>	<p style="text-align: right;">95</p> <p>1 A Labor Smart, Takeover, yes. I was the</p> <p>2 first noteholder if you will.</p> <p>3 Q Oh, I'm sorry.</p> <p>4 A Yeah.</p> <p>5 Q And people online were asking questions</p> <p>6 when that became public knowledge. Is that what</p> <p>7 you said?</p> <p>8 A Yeah. Because -- yes.</p> <p>9 Q And so you got on discord and interacted</p> <p>10 with some of these individuals?</p> <p>11 A Yeah. Clarified my position.</p> <p>12 Q And is this still online, or is it</p> <p>13 something like a Snapchat that disappears?</p> <p>14 A God. I don't know. I don't know.</p> <p>15 Q Do you have to have an account/password</p> <p>16 in order to --</p> <p>17 A Probably. I'm not -- I'm not on it</p> <p>18 anymore. I'm not active.</p> <p>19 Q So what was Maurice Salem's role in this</p> <p>20 discord group? Was he the owner of that particular</p> <p>21 group?</p> <p>22 A I don't know if owner is the right word,</p> <p>23 but --</p> <p>24 Q Controller, maybe?</p> <p>25 A Primary contributor.</p>
<p style="text-align: right;">94</p> <p>1 A No, no formal role.</p> <p>2 Q When is the first time you met</p> <p>3 Mr. Salem? And, again, phone, Zoom counts too.</p> <p>4 A December-January. Let's say January</p> <p>5 '23.</p> <p>6 Q What were the circumstances?</p> <p>7 A He operated a discord group.</p> <p>8 Q What's a discord group?</p> <p>9 A It's a -- it's a platform, communication</p> <p>10 platform, primarily used by gamers, video gamers.</p> <p>11 He was very active on there.</p> <p>12 Q And were you interacting with him on the</p> <p>13 discord group?</p> <p>14 A Yes. That's -- when you say, do you</p> <p>15 know him, that's how I got to know him.</p> <p>16 Q And what was the -- can you walk me</p> <p>17 through that?</p> <p>18 A Yeah. It had become public knowledge</p> <p>19 that I was the first and original noteholder, and</p> <p>20 all hell had broken loose with the company.</p> <p>21 James Deppoleto and I were front and center as the</p> <p>22 investors in this company where many people were</p> <p>23 screaming from the mountaintop what's going on.</p> <p>24 Q And you said, This company. You were</p> <p>25 the first investor in Takeover Inc.?</p>	<p style="text-align: right;">96</p> <p>1 Q Was he asking questions in that session?</p> <p>2 A Yeah, I think there was some Q -- yeah,</p> <p>3 I think. Yeah, probably.</p> <p>4 Q Have you interacted with Mr. Salem since</p> <p>5 that January 2023 discord group?</p> <p>6 A We talk periodically.</p> <p>7 Q About what? If it's hunting, I don't</p> <p>8 care but anything about the business?</p> <p>9 A He brought a customer to us from Dubai.</p> <p>10 So our most recent conversations were fulfilling</p> <p>11 that customer's order overseas.</p> <p>12 Q Kerby Fortner -- have you heard that</p> <p>13 name?</p> <p>14 A I have.</p> <p>15 Q Have you ever met Mr. Fortner?</p> <p>16 A We spoke on the phone when I desperately</p> <p>17 pleaded with him to give us the logins for the</p> <p>18 Takeover social media accounts so we could try and</p> <p>19 sell products for Takeover.</p> <p>20 Q Did he give those to you?</p> <p>21 A No.</p> <p>22 Q Did he say why?</p> <p>23 A I couldn't get a straight answer. He</p> <p>24 was nonresponsive. I couldn't get a straight</p> <p>25 answer. He offered them most recently, I think,</p>

Transcript of Thomas Zarro
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25 (97 to 100)

97	<p>1 after we became trading again. That was a big</p> <p>2 milestone.</p> <p>3 Q I might have asked you this, but maybe I</p> <p>4 didn't: Did -- was Mr. Costello -- is he or was he</p> <p>5 an employee, a officer, or agent, director of Next</p> <p>6 Gen?</p> <p>7 A No.</p> <p>8 Q How about Mr. Salem? Did he hold any of</p> <p>9 those titles?</p> <p>10 A No.</p> <p>11 Q How about Mr. Fortner? Is he --</p> <p>12 A No.</p> <p>13 Q Okay. When did you first meet</p> <p>14 Mr. Deppoleto?</p> <p>15 A By phone or email?</p> <p>16 Q Sure.</p> <p>17 A I think when both of us were in the same</p> <p>18 boat which is what's going on with this company,</p> <p>19 and why aren't we getting paid.</p> <p>20 Q Late 2022?</p> <p>21 A Yeah. Yeah.</p> <p>22 Q And was this a phone interaction?</p> <p>23 A I think I spoke to him on the phone and</p> <p>24 traded emails.</p> <p>25 MR. HARVEY: Okay. I'm going to hand</p>	99
98	<p>1 you our next exhibit of the day here.</p> <p>2 THE WITNESS: What do I do with these?</p> <p>3 MR. BENNION: Give them to the court</p> <p>4 reporter, I think.</p> <p>5 MR. HARVEY: Yeah. We'll just do a</p> <p>6 stack right here, and we'll try and keep them in</p> <p>7 order if we need to go back to them.</p> <p>8 THE WITNESS: This is my note.</p> <p>9 MR. BENNION: There's no question before</p> <p>10 you.</p> <p>11 THE WITNESS: Oh, sorry.</p> <p>12 MR. HARVEY: So I've handed you -- oh, I</p> <p>13 better put a sticker on that. This will be Exhibit</p> <p>14 1 for your deposition.</p> <p>15 (Zarro Exhibit 1 was marked for</p> <p>16 identification.)</p> <p>17 I'm neglecting my duties. I'm supposed</p> <p>18 to put the sticker on before I hand it to you.</p> <p>19 THE WITNESS: Thank you.</p> <p>20 THE REPORTER: So the previous one was</p> <p>21 Holley Exhibit 1?</p> <p>22 MR. HARVEY: Yes. This will be</p> <p>23 Mr. Zarro Exhibit 1.</p> <p>24 BY MR. HARVEY:</p> <p>25 Q Okay. So I've handed you what we marked</p>	100
	<p>1 as Zarro Exhibit 1. Do you recognize this</p> <p>2 document?</p> <p>3 A I do.</p> <p>4 Q And at the top, it says, Convertible</p> <p>5 Note Purchase Agreement; correct?</p> <p>6 A Yes.</p> <p>7 Q And in the bottom right corner, there's</p> <p>8 what we call Bates labels. It says D-E-F. There's</p> <p>9 a couple zeros --</p> <p>10 A Mm-hmm. Mm-hmm.</p> <p>11 Q -- and then some numbers. Do you see</p> <p>12 those?</p> <p>13 A I do.</p> <p>14 Q To speed us up today, I'm just going to</p> <p>15 say D-E-F and then, you know, for the first one</p> <p>16 466. I'm not going to say the zeros each time.</p> <p>17 Okay? So if you go to DEF477, which is towards --</p> <p>18 a little bit towards the back. And let me know</p> <p>19 when you're there.</p> <p>20 A Here.</p> <p>21 Q Okay. DEF477. That's your electronic</p> <p>22 signature; correct?</p> <p>23 A It is.</p> <p>24 Q Okay. And this is a note that was</p> <p>25 entered into between you and Labor Smart; correct?</p>	

Transcript of Thomas Zarro
Conducted on November 21, 2024

26 (101 to 104)

101	<p>1 Q It says, Schedule of Purchasers, and</p> <p>2 then it's got the date --</p> <p>3 A Mm-hmm.</p> <p>4 Q -- June 11, 2021; correct?</p> <p>5 A Yes.</p> <p>6 Q Okay. And this tells us you purchased a</p> <p>7 note from Labor Smart for \$300,000; correct?</p> <p>8 A Correct.</p> <p>9 Q And it was effective as of June 18,</p> <p>10 2021; correct?</p> <p>11 A Correct.</p> <p>12 Q How did Labor Smart intend to use the</p> <p>13 funds from your investment?</p> <p>14 A My assumption was to capitalize for</p> <p>15 marketing sales for Takeover and production.</p> <p>16 Q Is that how the funds were, in fact,</p> <p>17 used?</p> <p>18 A I do not know. I wasn't there.</p> <p>19 Q Did you, in fact, provide Labor Smart</p> <p>20 with the 300,000, pursuant to this note?</p> <p>21 A I did.</p> <p>22 Q When did you make that payment to Labor</p> <p>23 Smart?</p> <p>24 A I don't -- I don't have the exact date.</p> <p>25 Q Do you know whether it was paid all at</p>	103
102	<p>1 on staffing to the beverage industry which seems a</p> <p>2 little different than a staffing company?</p> <p>3 A I don't. I had absolutely no</p> <p>4 involvement.</p> <p>5 Q Okay. When you -- when you -- oh,</p> <p>6 strike that. At the time you signed this note, did</p> <p>7 you expect Labor Smart to honor it?</p> <p>8 A Absolutely.</p> <p>9 Q And to pay you back in accordance with</p> <p>10 the terms and conditions of the note?</p> <p>11 A Absolutely.</p> <p>12 MR. HARVEY: Okay. You can put that one</p> <p>13 aside or on our stack here. This will go a lot</p> <p>14 quicker once this folder starts getting a little</p> <p>15 bit less full. I've handed you what we marked as</p> <p>16 Exhibit 2.</p> <p>17 (Exhibit 2 was marked for identification.)</p> <p>18 And just generally speaking, Exhibit 2</p> <p>19 -- there's a couple emails in an email chain, but</p> <p>20 it's -- generally speaking, it's some emails</p> <p>21 between you and Mr. Tucker in the February and</p> <p>22 March 2022 time frame; correct?</p> <p>23 A Yes.</p> <p>24 Q Or March 2022. Sorry. Do you recognize</p> <p>25 this email exchange?</p>	104

Transcript of Thomas Zarro
Conducted on November 21, 2024

27 (105 to 108)

<p style="text-align: right;">105</p> <p>1 A Not specifically, but it looks</p> <p>2 authentic.</p> <p>3 Q Okay. Was your email address at the</p> <p>4 time TomZarro@gmail.com?</p> <p>5 A Yes.</p> <p>6 Q And go ahead and read the substance of</p> <p>7 his -- Mr. Tucker's March 2, 2022, email to you;</p> <p>8 and then let me know when you're done, and I'll ask</p> <p>9 you a couple of questions about it.</p> <p>10 A Okay. Out loud or just by myself?</p> <p>11 Q No. Just read it to yourself.</p> <p>12 A Okay. Okay. I've read this email in</p> <p>13 the last couple of days as well.</p> <p>14 Q Okay. The portion where he says, Please</p> <p>15 let this serve as confirmation that you've agreed</p> <p>16 to stay a default against Labor Smart for the funds</p> <p>17 owed to you, pursuant to our convertible note</p> <p>18 purchase agreement.</p> <p>19 Do you see that part?</p> <p>20 A I do.</p> <p>21 Q Was his email accurate that you had, in</p> <p>22 fact, agreed to stay a default against Labor Smart</p> <p>23 for the funds owed to you?</p> <p>24 A For a very short period.</p> <p>25 Q What was the period that you agreed to?</p>	<p style="text-align: right;">107</p> <p>1 A I believe that was alleged.</p> <p>2 Q Did Mr. Holley steal money from the</p> <p>3 company?</p> <p>4 A I don't -- I don't believe so.</p> <p>5 Q Why do you say that?</p> <p>6 A Because I believe Jason Tucker</p> <p>7 authorized all disbursements and handled the bank</p> <p>8 account.</p> <p>9 Q When you became the CEO of Takeover, did</p> <p>10 you ever go back over the books and records as part</p> <p>11 of your role as CEO?</p> <p>12 A Not specifically.</p> <p>13 Q Why not?</p> <p>14 A We were -- we were and have been in a</p> <p>15 fire fight since day one trying to bring solvency</p> <p>16 to the entities. So we were forward looking</p> <p>17 primarily.</p> <p>18 Q So you didn't go back and look to see,</p> <p>19 for example, if Mr. Holley owed the company</p> <p>20 something along the lines of \$250,000?</p> <p>21 A I don't know. Ask the question again,</p> <p>22 Mr. Harvey. Like --</p> <p>23 Q Did you ever --</p> <p>24 A -- I mean, I knew those things were</p> <p>25 alleged.</p>
<p style="text-align: right;">106</p> <p>1 A I believe 30 days.</p> <p>2 Q Okay.</p> <p>3 A As I mentioned in my correspondence to</p> <p>4 him.</p> <p>5 Q Why did you agree to stay a default?</p> <p>6 A I don't recall exactly.</p> <p>7 Q Do you remember what he told you to</p> <p>8 convince you to give him the 30 or give them the</p> <p>9 30-day grace period?</p> <p>10 A My assumption -- I have -- my</p> <p>11 recollection is that he said there was a big</p> <p>12 investor coming in that would be able to make them</p> <p>13 current and pay their bills.</p> <p>14 Q Was that Mr. Deppoleto?</p> <p>15 A That's my assumption.</p> <p>16 Q Okay. And he refers to A situation</p> <p>17 Holley placed us in.</p> <p>18 Do you see that towards the end of the</p> <p>19 email?</p> <p>20 A Yes.</p> <p>21 Q What's he referring to there?</p> <p>22 A I believe he's referring to a</p> <p>23 distribution that was alleged.</p> <p>24 Q That Mr. Holley was stealing money from</p> <p>25 the company?</p>	<p style="text-align: right;">108</p> <p>1 Q Sure. So you said, when you got</p> <p>2 involved, you were involved in a fire fight, and</p> <p>3 you were trying to figure out a way to salvage the</p> <p>4 company; correct?</p> <p>5 A Salvage the parent company and Takeover</p> <p>6 for that matter.</p> <p>7 Q And money in the door would certainly</p> <p>8 help that; correct?</p> <p>9 A Yes.</p> <p>10 Q So did you ever go back and look at the</p> <p>11 books and records to see if either Mr. Holley or</p> <p>12 Mr. McBride or some combination of them owed the</p> <p>13 company something along the lines of \$250,000?</p> <p>14 A That was all dealt with legally prior to</p> <p>15 my official capacity.</p> <p>16 Q And why were you confident that it was</p> <p>17 appropriately dealt with?</p> <p>18 A Because I believe there was a lawsuit</p> <p>19 between the company and my colleague that was</p> <p>20 settled -- the Arizona suit.</p> <p>21 Q Do you know who at Takeover authorized</p> <p>22 the settlement of that suit?</p> <p>23 A I believe it was the officers at that</p> <p>24 time which would have been, my assumption, McBride,</p> <p>25 Pavlik, Holley, and the legal counsel.</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

28 (109 to 112)

109	<p>1 Q So Mr. Holley authorized the settlement 2 of Takeover's suit against him? 3 A I really don't recall. That was before 4 my time. 5 Q Okay. And I'm just asking for your 6 understanding. 7 A No problem. Before my time. 8 Q In any event, you didn't go back when 9 you did come in -- become the CEO of the company. 10 You didn't go back and look over any of that to see 11 if that was an appropriate settlement; true? 12 MR. BENNION: I'm going to state an 13 objection. It may call for a legal conclusion. 14 Vague and ambiguous. 15 A Did I second guess the lawyers and 16 everything, no. 17 Q Did you second guess the officers and 18 directors? 19 A Every day. Every day. 20 Q And -- but even though you're second 21 guessing them, you didn't go back and revisit the 22 lawsuit to see whether it was appropriate to settle 23 it? 24 A I believe at my -- I believe at my level 25 everything seemed appropriate.</p>	111	<p>1 Q And that was just for Mr. McBride? 2 A I believe so. 3 Q Did you understand that Mr. Holley owed 4 the company money? 5 A I did not. 6 Q Okay. 7 A Or there was an offset. Something may 8 have taken place, but our audit did not reveal that 9 we have an open receivable from Mike Holley, to my 10 recollection. 11 MR. HARVEY: Okay. You can put that one 12 in the pile, and I'll hand you what we've marked as 13 Exhibit 3. 14 (Exhibit 3 was marked for identification.) 15 Q Do you recognize this document? 16 A I do now. I haven't seen this one 17 recently. This must have been after James came in. 18 Q What is this document that you're 19 looking at as Exhibit 3? 20 A It looks like me trying to collect and 21 Jason saying here you go. We'll pay you. 22 Q So the top email in that chain is from 23 you, dated July 6th to Mr. Tucker, and you're 24 copying Mr. McBride; correct? 25 A Yes.</p>
110	<p>1 Q Okay. 2 A So I did scan it, but did I go through 3 legal to get second opinions, no. 4 Q And you didn't go back over the books 5 and records to see whether, in fact, Mr. Holley 6 and/or Mr. McBride owed the company something to 7 the tune of \$250,000; is that correct? 8 A Well, you're combining McBride and 9 Holley. Can you separate them in your request, 10 please? 11 Q Either of them. Did you -- 12 A I know there was some McBride money 13 discussed -- that it would be owed. I don't 14 believe anything was collectible. 15 Q So I think I understood you, but let me 16 make sure. You understood that Mr. McBride owed 17 the company money; true? 18 A I believe a much smaller amount than 19 what is being claimed but yes. 20 Q What was the amount you understood? 21 A I don't recall the books and the audits 22 that took place. Please remember everything went 23 through an audit, a PCAOB audit. Very, very 24 thorough. And I want to say 20,000 was the number, 25 not 240. I don't recall, though.</p>	112	<p>1 Q Okay. And you're saying, Can I get an 2 update on the now very delinquent payment; correct? 3 A Correct. 4 Q And what -- it says payment, singular, 5 not payments, plural. What payment are you 6 referring to in this email? 7 A I'm sure the 26,000 due monthly for the 8 note. 9 Q Did you receive an update on the 10 payment? 11 A Apparently, I did. 12 Q Why do you say that? 13 A Because it says -- Jason responded: I'm 14 sorry for the delay. Please see your wire. 15 MR. HARVEY: Okay. Okay. You can put 16 that one aside. I'm handing you Exhibit 4. 17 (Exhibit 4 was marked for identification.) 18 Q And just generally speaking, the top 19 substantive email is from you to Mr. Tucker, and 20 you're copying Patrick Morris, dated November 16, 21 2022; correct? 22 A Yes. 23 Q And the first -- well, the first 24 sentence of the second paragraph says, I hope all 25 is well in Arizona. However, it looks like things</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

29 (113 to 116)

113	<p>1 are not going our way. We lost the TRO, and it</p> <p>2 looks like we now have a protracted legal battle on</p> <p>3 our hands.</p> <p>4 Did I read that correctly?</p> <p>5 A Yes.</p> <p>6 Q What did you mean when you said Things</p> <p>7 are not going our way?</p> <p>8 A Well, at that point, Jason and James had</p> <p>9 taken the company to court to get a receivership.</p> <p>10 So at that point, Jason and James, both of them</p> <p>11 directors, took the company to court to try and get</p> <p>12 a receivership and remove the existing officers</p> <p>13 from control.</p> <p>14 Q So this email is to Jason, and you're</p> <p>15 saying It looks like things are not going our way.</p> <p>16 A Correct.</p> <p>17 Q You're saying that he's adverse to you.</p> <p>18 A Well, a lot has happened since then. At</p> <p>19 that point he was calling me. He was telling me</p> <p>20 that everything was going to be fine. James was</p> <p>21 coming in, ongoing capital. You're going to get</p> <p>22 paid. Don't worry about a thing. So at that point</p> <p>23 he was my path to payment and I believed was doing</p> <p>24 the right thing.</p> <p>25 Q So you supported the appointment of a</p>	115	<p>1 2022, did you receive any payments from Labor</p> <p>2 Smart?</p> <p>3 A I don't believe so.</p> <p>4 MR. HARVEY: Okay. You can put that one</p> <p>5 aside. Put it back on the stack. I've handed you</p> <p>6 Exhibit 5.</p> <p>7 (Exhibit 5 was marked for identification.)</p> <p>8 Q And, generally speaking, this looks like</p> <p>9 it's a demand letter from Attorney Patrick Morris.</p> <p>10 A Yeah. He's my attorney. My securities</p> <p>11 attorney.</p> <p>12 Q And it's dated January 22, 2023;</p> <p>13 correct?</p> <p>14 A Yes.</p> <p>15 Q And it's directed to the board of</p> <p>16 directors of Labor Smart and Takeover Industries</p> <p>17 Inc.; correct?</p> <p>18 A Mm-hmm. Mm-hmm.</p> <p>19 Q Yes?</p> <p>20 A Yes.</p> <p>21 Q And he says in the first sentence, I</p> <p>22 represent Thomas Zarro -- I'm going to leave out</p> <p>23 the parenthetical -- and he has asked me to inform</p> <p>24 you that the convertible note purchase agreement</p> <p>25 dated June 18, 2021, is now past due and that</p>
114	<p>1 receivership, and you're saying Things are not</p> <p>2 going our way because the judge didn't appoint a</p> <p>3 receiver?</p> <p>4 A At that point I was -- my only</p> <p>5 communication with the company was with</p> <p>6 Jason Tucker. And as he explained things, I</p> <p>7 believed that was the best path for me and the</p> <p>8 company as he explained it.</p> <p>9 Q Did Mr. Tucker respond to this email in</p> <p>10 any way? Either via email, text, phone call?</p> <p>11 A We had several phone calls after this.</p> <p>12 I don't recall specifically.</p> <p>13 Q You don't remember anything that he</p> <p>14 said?</p> <p>15 A Not specifically.</p> <p>16 Q Generally?</p> <p>17 A Not really. Not specific. I mean,</p> <p>18 that's when the whole hurricane started.</p> <p>19 Q What do you mean by that?</p> <p>20 A Well, that's when James pulled out,</p> <p>21 threatened lawsuit. I was threatening lawsuit.</p> <p>22 Jason and the existing officers weren't getting</p> <p>23 along at all. The company wasn't selling anything.</p> <p>24 That was, like, the beginning of the end.</p> <p>25 Q After you got this email on November 16,</p>	116	<p>1 payment must be made immediately; correct?</p> <p>2 A Correct.</p> <p>3 Q Did Labor Smart or Takeover immediately</p> <p>4 pay you as demanded?</p> <p>5 A No.</p> <p>6 Q What was Labor Smart's response to this</p> <p>7 letter?</p> <p>8 A We have no money.</p> <p>9 Q Did you get a separate response from</p> <p>10 Takeover?</p> <p>11 A I don't recall.</p> <p>12 Q Who sent that response?</p> <p>13 A I don't recall.</p> <p>14 Q And if you go to page 3 of that, about a</p> <p>15 third of the way down -- well, actually more like</p> <p>16 halfway down on page 3, there's a paragraph that</p> <p>17 starts off with Based upon the express written</p> <p>18 obligations contained in the note and the</p> <p>19 promissory note, Zarro hereby demands that the</p> <p>20 company immediately pay the outstanding principal</p> <p>21 and interest due to him and, in the pendency of</p> <p>22 such payment, that the company, its officers and</p> <p>23 directors acknowledge the following: And then</p> <p>24 there's six numbered paragraphs; correct?</p> <p>25 A Yes.</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

30 (117 to 120)

<p style="text-align: right;">117</p> <p>1 Q After this letter was sent, did you</p> <p>2 reach an agreement with Labor Smart regarding</p> <p>3 repayment of the note?</p> <p>4 A No.</p> <p>5 Q Did you execute an amended agreement</p> <p>6 with Labor Smart?</p> <p>7 A I don't recall.</p> <p>8 Q Did you execute a new note with Labor</p> <p>9 Smart?</p> <p>10 A I don't recall.</p> <p>11 Q One of the --</p> <p>12 A I don't believe so. On this. I don't</p> <p>13 believe so.</p> <p>14 Q One of the conditions that he's got</p> <p>15 listed is he wanted the company to acknowledge</p> <p>16 numbered paragraph five -- that numbered paragraph</p> <p>17 five -- excuse me -- Zarro did not approve, nor was</p> <p>18 he given the opportunity to approve the Deppoleto</p> <p>19 convertible note.</p> <p>20 A Correct. I was not. James was a</p> <p>21 surprise to me and not a good one.</p> <p>22 Q Why is that?</p> <p>23 A Because he believes he's the senior</p> <p>24 noteholder, and it was against the terms of my note</p> <p>25 that there would be any other debt taken on without</p>	<p style="text-align: right;">119</p> <p>1 A Not to my knowledge.</p> <p>2 Q Have you executed any notes with Next</p> <p>3 Gen Beverages?</p> <p>4 A Not to my knowledge.</p> <p>5 Q Okay. I'm going to ask you a couple</p> <p>6 timeline questions because that might help us be a</p> <p>7 little more efficient here. I know we've kind of</p> <p>8 talked about your involvement with Takeover, and</p> <p>9 your first appointment as CEO was mid- or April</p> <p>10 2023, but you said you were doing things --</p> <p>11 basically the same things before that point;</p> <p>12 correct?</p> <p>13 A Trying.</p> <p>14 Q When did you first start doing those</p> <p>15 types of actions?</p> <p>16 A I think, if we refer to that document,</p> <p>17 you'll see that in November '22 I was reaching out</p> <p>18 to Jason to speak to Mr. Deppoleto to see what we</p> <p>19 could do to resolve the issues that they created.</p> <p>20 Q So it's your understanding that it was</p> <p>21 around November 2022 that you began taking on -- if</p> <p>22 not the formal title of CEO, you were doing the</p> <p>23 type of things that you were doing once you became</p> <p>24 CEO. Is that fair?</p> <p>25 MR. BENNION: Objection to the form of</p>
<p style="text-align: right;">118</p> <p>1 my permission, because I would have said no. If</p> <p>2 James comes on, he can, and he can assume my</p> <p>3 position; but, first, he has to pay me which he did</p> <p>4 not do.</p> <p>5 Q And one of the other conditions was</p> <p>6 paragraph six: Zarro's note and promissory note</p> <p>7 are senior to the Deppoleto convertible note;</p> <p>8 correct?</p> <p>9 A Yes.</p> <p>10 Q Did Mr. Deppoleto ever agree to that?</p> <p>11 A I don't believe so.</p> <p>12 Q Okay. Besides this note that we're</p> <p>13 talking about in Exhibit 5, have you executed any</p> <p>14 other notes with Labor Smart?</p> <p>15 A No convertible notes.</p> <p>16 Q Any other note of any type?</p> <p>17 A Private placement type stuff. Yes.</p> <p>18 Q What do you mean by that?</p> <p>19 A Well, like, investments. New</p> <p>20 investments to keep the company going.</p> <p>21 Q But no other note of any kind?</p> <p>22 A Not specifically, I don't believe, but</p> <p>23 it's been a long two years.</p> <p>24 Q Have you executed any notes directly</p> <p>25 with Takeover?</p>	<p style="text-align: right;">120</p> <p>1 the question. It's vague and ambiguous.</p> <p>2 Go ahead.</p> <p>3 A No.</p> <p>4 Q What was incorrect about it?</p> <p>5 A I -- this has been a gradual increase in</p> <p>6 activity. So at this point I was acting as a</p> <p>7 investor that wasn't getting paid -- somebody that</p> <p>8 was defrauded.</p> <p>9 Q So as of -- and that's helpful. Thank</p> <p>10 you. So as of November of 2022 -- let's say</p> <p>11 November 1, 2022 -- did you have any say-so, input,</p> <p>12 anything along those lines in terms of signing off</p> <p>13 on any investments that Takeover might bring into</p> <p>14 the company?</p> <p>15 A I was supposed to.</p> <p>16 Q What do you mean by that?</p> <p>17 A My note clearly said that other</p> <p>18 investments need to be approved by me, but they</p> <p>19 weren't presented as such.</p> <p>20 Q Okay. And so regardless of what your</p> <p>21 note said, in terms of the rubber hitting the road,</p> <p>22 facts on the ground, you weren't signing off on or</p> <p>23 even involved in discussions about investments or</p> <p>24 potential investments in Takeover before November</p> <p>25 1, 2022. Is that --</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

31 (121 to 124)

121	<p>1 A That is my recollection, yes,</p> <p>2 Mr. Harvey.</p> <p>3 Q Okay. So, for example, there's been</p> <p>4 testimony about a June 10, 2021, special meeting of</p> <p>5 the Takeover Board of Directors. Did you have any</p> <p>6 involvement in that whatsoever?</p> <p>7 A No.</p> <p>8 Q Do you have any knowledge of it now?</p> <p>9 A No.</p> <p>10 Q Okay. And in terms of -- we talked a</p> <p>11 little bit about you had an understanding that</p> <p>12 Mr. McBride was alleged to have spent Takeover</p> <p>13 money on personal expenses; correct?</p> <p>14 A Correct.</p> <p>15 Q But do you have any personal knowledge</p> <p>16 about whether he did or did not do that?</p> <p>17 A I have -- I know for the audit and for</p> <p>18 tax purposes, we had to drill down to some of those</p> <p>19 expenses, and some of those were found to be</p> <p>20 legitimate business expenses.</p> <p>21 Q But not all of them?</p> <p>22 A I don't know.</p> <p>23 Q Okay.</p> <p>24 A It was a laundry list.</p> <p>25 Q What's your understanding of the timing</p>	123	<p>1 was authorized by Jason Tucker according to</p> <p>2 Mr. McBride.</p> <p>3 Q And the number \$250,000 -- that sounds</p> <p>4 way out of line with you?</p> <p>5 A Yeah. Most -- a lot of those were</p> <p>6 business expenses put on a company credit card.</p> <p>7 Q Okay. And the ones that were not</p> <p>8 business expenses -- did Mr. McBride ever repay the</p> <p>9 company for those?</p> <p>10 MR. BENNION: Objection. Lacks</p> <p>11 foundation. May call for speculation.</p> <p>12 Go ahead.</p> <p>13 A I believe he did. I think he did pay</p> <p>14 some.</p> <p>15 Q But not all?</p> <p>16 A I don't know.</p> <p>17 Q Okay.</p> <p>18 A I don't know.</p> <p>19 Q And are you aware of allegations that</p> <p>20 Michael Holley made unauthorized distributions from</p> <p>21 Takeover?</p> <p>22 A I'm aware of the allegations.</p> <p>23 Q When did you become aware of the</p> <p>24 allegations?</p> <p>25 A I think sprinkled in the conversations</p>
122	<p>1 in which those expenditures in question -- what's</p> <p>2 your understanding of the timing of when those</p> <p>3 occurred?</p> <p>4 A All prior to November '22?</p> <p>5 Q Okay. And to the extent you have</p> <p>6 knowledge of them, it's through the audit. You</p> <p>7 didn't personally go back and look at them; true?</p> <p>8 A Well, that's not entirely true. I mean,</p> <p>9 obviously, I tried to navigate the path so I could</p> <p>10 understand who was -- who I was dealing with. So,</p> <p>11 again, many of those expenses were found to be</p> <p>12 legitimate business expenses.</p> <p>13 Q Did you have any discussions with</p> <p>14 Mr. McBride about those expenditures?</p> <p>15 A Yes.</p> <p>16 Q And what did he tell you?</p> <p>17 A Many of them were legitimate business</p> <p>18 expenses and authorized by Jason Tucker.</p> <p>19 Q And you keep saying many, not all. So</p> <p>20 --</p> <p>21 A I don't think I could say all,</p> <p>22 personally.</p> <p>23 Q And why do you say that?</p> <p>24 A Because I still think there was maybe</p> <p>25 20,000 that was almost an advance or something that</p>	124	<p>1 with Jason as to where's my money, he went into the</p> <p>2 Mike took it all.</p> <p>3 Q Did Mr. Holley make unauthorized</p> <p>4 distributions without approval from the Takeover</p> <p>5 Board of Directors?</p> <p>6 A I was not there at the time.</p> <p>7 Q Whether you were there or not, do you</p> <p>8 have any knowledge of it today?</p> <p>9 A I do have knowledge. I believe he was</p> <p>10 issued authorization and instruction by</p> <p>11 Jason Tucker to do disbursements, like</p> <p>12 distributions almost.</p> <p>13 Q Do you remember what the dollar figure</p> <p>14 attached to those --</p> <p>15 A I think it was hundreds of thousands of</p> <p>16 dollars.</p> <p>17 Q Close to \$750,000?</p> <p>18 A Yes. Yeah. That's the number in my</p> <p>19 head that I recall.</p> <p>20 Q Who received those distributions?</p> <p>21 A I think Jason Tucker. I think -- you</p> <p>22 know, again, at that point, a disgruntled investor</p> <p>23 thinking I was defrauded, everybody under the sun</p> <p>24 like it was Christmas.</p> <p>25 Q So Mr. Pavlik, Mr. Holley --</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

32 (125 to 128)

<p style="text-align: right;">125</p> <p>1 A All of them.</p> <p>2 A -- Mr. McBride?</p> <p>3 A Jason Tucker, all the salespeople. I</p> <p>4 mean, just everybody that was involved.</p> <p>5 THE REPORTER: What was the first name</p> <p>6 you said in that list?</p> <p>7 MR. HARVEY: I'll ask it this way</p> <p>8 because I don't remember.</p> <p>9 Q Was it your understanding that</p> <p>10 Mr. Pavlik, Mr. Holley, and Mr. McBride received</p> <p>11 unauthorized distributions?</p> <p>12 A No. I don't believe they were</p> <p>13 unauthorized. I think they were authorized.</p> <p>14 Q Whether they were authorized or not, was</p> <p>15 it your understanding that Mr. Pavlik, Mr. Holley,</p> <p>16 and Mr. McBride received distributions?</p> <p>17 A Compensation/distributions.</p> <p>18 Q When was your understanding about when</p> <p>19 they received those?</p> <p>20 A I don't know. I wasn't there.</p> <p>21 Q Do you have any understanding today?</p> <p>22 A All before November '22. My best</p> <p>23 recollection is somewhere in '21, late '21. That's</p> <p>24 a guess. That's speculating.</p> <p>25 Q Are you aware of -- well, have you read</p>	<p style="text-align: right;">127</p> <p>1 A (Crosstalk).</p> <p>2 MR. BENNION: Objection. Calls for</p> <p>3 legal conclusion. Lacks foundation.</p> <p>4 Go ahead.</p> <p>5 A I would think the only way that would be</p> <p>6 appropriate is if it was part of the organized</p> <p>7 compensation plan, you know, for these people.</p> <p>8 Q And so if Mr. Holley testified that he</p> <p>9 was taking a percentage and didn't disclose it to</p> <p>10 investors?</p> <p>11 A I would think, again, depending on what</p> <p>12 he was getting paid. I don't know the whole</p> <p>13 program. I would think it would be in bad form</p> <p>14 unless it was part of a complete package that was</p> <p>15 clearly understood.</p> <p>16 Q And if there's nothing written saying</p> <p>17 that, it would be fraud; correct?</p> <p>18 MR. BENNION: Objection. Calls for</p> <p>19 legal conclusion.</p> <p>20 A I don't believe -- from everything I've</p> <p>21 seen, I don't believe fraud was committed by those</p> <p>22 gentlemen. I think everything was done in the</p> <p>23 daylight with the executive management, and they</p> <p>24 were the board.</p> <p>25 Q Well, you told me a minute ago that you</p>
<p style="text-align: right;">126</p> <p>1 any deposition transcripts from this case?</p> <p>2 A I have not. We -- I have not.</p> <p>3 Q Okay. Are you aware of a time when</p> <p>4 Takeover was bringing in money from investors, and</p> <p>5 Mr. Holley and Mr. McBride were taking a percentage</p> <p>6 of that money and pocketing it without disclosing</p> <p>7 that to investors?</p> <p>8 MR. BENNION: Objection. Vague and</p> <p>9 ambiguous. May call for speculation. Lacks</p> <p>10 foundation.</p> <p>11 Go ahead.</p> <p>12 THE WITNESS: One more time, sir.</p> <p>13 Q Are you aware of a time in Takeover in</p> <p>14 which Takeover was bringing in money from investors</p> <p>15 and Mr. McBride and Mr. Holley were taking a</p> <p>16 percentage of those investments and pocketing that</p> <p>17 money themselves without disclosing that to the</p> <p>18 investors?</p> <p>19 A I -- was I aware of that, no.</p> <p>20 Absolutely not.</p> <p>21 Q Are you aware of whether that happened</p> <p>22 or not before you -- before you came on?</p> <p>23 A I was not aware.</p> <p>24 Q You'd agree with me that that's wrong,</p> <p>25 correct, if that did happen?</p>	<p style="text-align: right;">128</p> <p>1 weren't even aware that this was happening.</p> <p>2 A Correct.</p> <p>3 Q Mr. Holley --</p> <p>4 A At that time. At that time.</p> <p>5 Absolutely.</p> <p>6 Q And Mr. Holley testified that he did, in</p> <p>7 fact, do this. So I'm asking you, if there's no</p> <p>8 written authorization for him to do that, you'd</p> <p>9 agree with me that's fraud; correct?</p> <p>10 MR. BENNION: Objection. Asked and</p> <p>11 answered. Calls for a legal conclusion.</p> <p>12 Go ahead.</p> <p>13 A I believe, if my colleague did that and</p> <p>14 said he did that, that that was done in daylight</p> <p>15 with an understanding with the other team members,</p> <p>16 including the executive management, Mr. Tucker.</p> <p>17 Q When you say done in daylight --</p> <p>18 A In other words, not -- you know, the</p> <p>19 money didn't -- I'm trusting the money didn't</p> <p>20 vanish in the middle of the night and that there</p> <p>21 was a discussion that, hey, we got X and with this</p> <p>22 X we're getting boom as part of our compensation</p> <p>23 plan.</p> <p>24 Q There would need to be something in</p> <p>25 writing authorizing something like that; correct?</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

33 (129 to 132)

129	<p>1 A I don't know. I don't know how they ran</p> <p>2 things. I know that when we get investor money</p> <p>3 now, no percentage is given to people. They go for</p> <p>4 company expenses.</p> <p>5 Q Well, let me ask it this way: You were</p> <p>6 one of the first -- you were the first noteholder</p> <p>7 --</p> <p>8 A Yeah.</p> <p>9 Q -- related to Takeover; correct?</p> <p>10 A Yes.</p> <p>11 Q If, say, 5 percent of your investment</p> <p>12 went directly to Mr. Holley and Mr. McBride, would</p> <p>13 you have been pleased about that, given that it</p> <p>14 wasn't disclosed to you before you invested?</p> <p>15 A The only way I would have tolerated that</p> <p>16 is if it was they're making, you know, less than</p> <p>17 they should be, and this is a way we get to pay</p> <p>18 them. In other words, your money allows us to make</p> <p>19 a payment to keep them employed. If it was a</p> <p>20 bonus, per se, I would tend to agree with you.</p> <p>21 Q And it should be in writing; correct?</p> <p>22 A There should have been an understanding.</p> <p>23 Writing or not, an understanding.</p> <p>24 Q Okay. Are you aware of instances of</p> <p>25 Mr. Holley charging personal expenses to Takeover?</p>	131
130	<p>1 A I am not.</p> <p>2 Q Did you ever hear allegations to that</p> <p>3 effect?</p> <p>4 A Not really. Not charging. No.</p> <p>5 Q What do you mean by that? Why are you</p> <p>6 qualifying it?</p> <p>7 A I don't -- I don't -- because you've</p> <p>8 said that he -- there was alleged monies rerouted</p> <p>9 or misdirected -- cash expenses. Now you're saying</p> <p>10 charged. I'm aware of the allegations of</p> <p>11 Toby McBride charging fraudulent transactions. I'm</p> <p>12 not aware of any alleged allegations of Mike Holley</p> <p>13 charging fraudulent transactions.</p> <p>14 Q Are you aware of Mr. Holley's family</p> <p>15 members making personal purchases that were charged</p> <p>16 to Takeover?</p> <p>17 A I am not. I heard -- I did hear one</p> <p>18 thing. That I think Courtney was doing marketing</p> <p>19 work for the company and did -- and took a charge</p> <p>20 if you will.</p> <p>21 Q Who's Courtney?</p> <p>22 A Mike's daughter. She did the marketing.</p> <p>23 She was doing social media, I believe. Again, all</p> <p>24 before my time, Mr. Harvey.</p> <p>25 Q Okay. Do you know when those purchases</p>	132

Transcript of Thomas Zarro
Conducted on November 21, 2024

34 (133 to 136)

<p style="text-align: right;">133</p> <p>1 A Okay. I'm confused now. Hang on.</p> <p>2 Okay.</p> <p>3 Q If you look, the second whereas clause</p> <p>4 is the November 7, 2022.</p> <p>5 A Okay. Got it. Got it. I was looking</p> <p>6 down here at the --</p> <p>7 Q Okay. So I just asked you if you had</p> <p>8 involvement in that meeting, and I don't see your</p> <p>9 name listed up there. Did you have any indirect</p> <p>10 involvement?</p> <p>11 A No. No. Nothing that I can recall.</p> <p>12 No.</p> <p>13 Q Okay. It goes on to talk about -- and</p> <p>14 you can -- I can point you to the clauses, but I'll</p> <p>15 just ask you. It talks about suspending</p> <p>16 Mr. Costello at that meeting. Do you know why</p> <p>17 Mr. Costello was suspended?</p> <p>18 A I -- my only assumption is he -- there</p> <p>19 was no money.</p> <p>20 Q Why would no money result in a</p> <p>21 suspension from his position of CEO?</p> <p>22 A How do you keep somebody if you don't</p> <p>23 pay them?</p> <p>24 Q And I can point you to the whereas</p> <p>25 clauses too. It also talks about Mike Holley being</p>	<p style="text-align: right;">135</p> <p>1 and the management so the shareholders could get</p> <p>2 trading again.</p> <p>3 Q Why couldn't Labor Smart get trading or</p> <p>4 audited?</p> <p>5 A Because it was never -- the work wasn't</p> <p>6 being done to get that done. There was a lot of</p> <p>7 work, Mr. Harvey. Again, tax returns, accounting</p> <p>8 audits.</p> <p>9 Q Okay.</p> <p>10 A Assets.</p> <p>11 Q Did you receive communications about</p> <p>12 this planned spinoff?</p> <p>13 A Through social media. Through the</p> <p>14 company's social media and Jason Tucker's social</p> <p>15 media.</p> <p>16 A That was the only information you</p> <p>17 received? You didn't get --</p> <p>18 A Yes. Nothing inside. No.</p> <p>19 Q Okay. When was the planned spinoff</p> <p>20 supposed to -- when you first heard about it, when</p> <p>21 was it supposed to take place?</p> <p>22 A I think soon after LTNC, Labor Smart,</p> <p>23 got delisted.</p> <p>24 Q When was that?</p> <p>25 A Sometime in mid-'21, I think. Mid-'21.</p>
<p style="text-align: right;">134</p> <p>1 appointed interim CEO until the board of directors</p> <p>2 makes a determination with respect to Mr. Costello.</p> <p>3 Do you know why Mr. Holley was appointed interim</p> <p>4 CEO --</p> <p>5 A I don't.</p> <p>6 Q -- of Labor Smart?</p> <p>7 A I don't, Mr. Harvey. This is all part</p> <p>8 of that, like, insanity.</p> <p>9 Q I get it. I get it. I have to ask you.</p> <p>10 A This is where -- this sounds like where</p> <p>11 James and I started getting -- like, the insanity</p> <p>12 of it all.</p> <p>13 Q Okay. There's also discussion of a,</p> <p>14 quote, planned spinoff of Takeover. Do you have</p> <p>15 any idea what that refers to?</p> <p>16 A I do.</p> <p>17 Q What's that refer to?</p> <p>18 A I thought we were going to try and get</p> <p>19 out of here early today. Labor Smart -- from what</p> <p>20 we were told as outsiders, Labor Smart could not</p> <p>21 get traded and could not be audited. Therefore,</p> <p>22 the only way to save the shareholders, so to speak,</p> <p>23 was to spin off Takeover industries. So it was my</p> <p>24 understanding, as an investor and an outsider, that</p> <p>25 that spinoff was being worked on by Jason Tucker</p>	<p style="text-align: right;">136</p> <p>1 Q Why did Labor Smart get delisted?</p> <p>2 A They did not -- well, I don't know. OTC</p> <p>3 Markets would not allow them to become trading.</p> <p>4 Regulatory, promotional -- like, they could have</p> <p>5 named many things.</p> <p>6 Q Okay. Do you know -- and that same</p> <p>7 paragraph talks about review of documents and</p> <p>8 information concerning the transaction. Do you</p> <p>9 know whether Labor Smart actually conducted a</p> <p>10 review of documents and information concerning the</p> <p>11 transaction?</p> <p>12 A Which paragraph are you on, Mr. Harvey?</p> <p>13 Q Yeah. This one's at DEF4.</p> <p>14 A Oh, hang on. Yep.</p> <p>15 Q And there's a bunch of resolved --</p> <p>16 A Okay. Here we go.</p> <p>17 Q This is the fourth one from the bottom.</p> <p>18 A Okay.</p> <p>19 Q It says, Resolved. The planned spinoff</p> <p>20 from Takeover suspended for 90 days, while the</p> <p>21 company undertakes a review of documents and</p> <p>22 information concerning the transaction, which have</p> <p>23 been withheld by Jason Tucker.</p> <p>24 A I don't know. This is --</p> <p>25 Q So my question was do you know whether</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

35 (137 to 140)

<p style="text-align: right;">137</p> <p>1 Labor Smart conducted a review of documents and</p> <p>2 information concerning the transaction?</p> <p>3 A I don't. I don't know.</p> <p>4 MR. HARVEY: Okay. Okay. You can put</p> <p>5 that one on the stack. This document has been</p> <p>6 already labeled as Holley Exhibit 4. So we won't</p> <p>7 relabel it.</p> <p>8 (Holley Exhibit 4, previously marked, was</p> <p>9 identified.)</p> <p>10 And at the top of this one, it says,</p> <p>11 Written Consent Board of directors of Takeover</p> <p>12 Industries Inc.</p> <p>13 Q Do you see that?</p> <p>14 A I do.</p> <p>15 Q Do you recognize this document?</p> <p>16 A I don't.</p> <p>17 Q And it -- in the numbered paragraph six</p> <p>18 on the second page, it says, Joseph Pavlik was</p> <p>19 appointed interim president of the company until</p> <p>20 the board makes a determination with respect to</p> <p>21 Jason Tucker.</p> <p>22 Do you see that?</p> <p>23 A I do.</p> <p>24 Q Did you or anyone else from Takeover</p> <p>25 provide -- well, strike that. To your knowledge,</p>	<p style="text-align: right;">139</p> <p>1 I don't know.</p> <p>2 Q Okay. And, again, like I said, I've got</p> <p>3 a checklist. I just need to check the boxes. So</p> <p>4 if the answer is no, just say no, and we'll move on</p> <p>5 to the next exhibit.</p> <p>6 A No.</p> <p>7 Q Okay. And, again, a broader timeline</p> <p>8 question: You understand that the company, being</p> <p>9 Takeover, entered into several notes with</p> <p>10 Mr. Deppoleto. Fair?</p> <p>11 A Yes.</p> <p>12 Q Did you have any involvement with the</p> <p>13 May 25th, 2022, note between Takeover and</p> <p>14 Mr. Deppoleto?</p> <p>15 A I did not.</p> <p>16 Q Did you have any involvement with the</p> <p>17 secured convertible promissory note Takeover</p> <p>18 entered into with Mr. Deppoleto?</p> <p>19 A No.</p> <p>20 Q Did you have any involvement in the</p> <p>21 joint written consent of the board of directors and</p> <p>22 shareholders of Takeover Industries Inc. on May</p> <p>23 2022 authorizing the company to enter into the note</p> <p>24 with Mr. Deppoleto?</p> <p>25 A No.</p>
<p style="text-align: right;">138</p> <p>1 did Mr. Deppoleto provide written consent for</p> <p>2 Mr. Pavlik's appointment as Takeover's president?</p> <p>3 A No. I don't know. I take that back. I</p> <p>4 don't know. I wasn't there.</p> <p>5 Q To your knowledge, did any officer or</p> <p>6 director of Takeover ask for Mr. Deppoleto's</p> <p>7 consent to have Mr. Pavlik appointed as president?</p> <p>8 A Not to my knowledge.</p> <p>9 Q On this same document, paragraph seven</p> <p>10 says that Mr. McBride has been appointed as the CEO</p> <p>11 of Takeover; correct?</p> <p>12 A Yes.</p> <p>13 Q Did Mr. Deppoleto provide written</p> <p>14 consent for Mr. McBride's appointment as Takeover's</p> <p>15 CEO?</p> <p>16 A All before my time, Mr. Harvey. I don't</p> <p>17 know.</p> <p>18 Q And I have to ask you because you're</p> <p>19 only here once. So I assumed as much, but --</p> <p>20 A Yeah.</p> <p>21 Q -- I've just got to check it off my box.</p> <p>22 A Sure. It's no problem.</p> <p>23 Q Are you aware of any officer or director</p> <p>24 of Takeover seeking Mr. Deppoleto's consent?</p> <p>25 A As of this time period, I can't answer.</p>	<p style="text-align: right;">140</p> <p>1 Q Did you have any involvement with the</p> <p>2 first amendment to the convertible note purchase</p> <p>3 agreement, dated July 6th, 2022 --</p> <p>4 A No.</p> <p>5 Q -- between Mr. Deppoleto --</p> <p>6 Hold on.</p> <p>7 A Oh, sorry.</p> <p>8 Q -- Mr. Deppoleto and Takeover?</p> <p>9 A No.</p> <p>10 Q Okay. And, again, I'm just checking</p> <p>11 boxes.</p> <p>12 A No. I got you.</p> <p>13 Q I've got to get the question out first.</p> <p>14 Did you have any involvement in the second secured</p> <p>15 convertible promissory note, dated July 6th, 2022,</p> <p>16 between Mr. Deppoleto and the company?</p> <p>17 A No.</p> <p>18 Q Did you have any involvement in the</p> <p>19 joint written consent of the board of directors and</p> <p>20 shareholders of Takeover Industries Inc., dated</p> <p>21 July 1, 2022?</p> <p>22 A No.</p> <p>23 Q Did you have any involvement in the</p> <p>24 second amendment to convertible note purchase</p> <p>25 agreement, dated August 19, 2022?</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

36 (141 to 144)

<p style="text-align: right;">141</p> <p>1 A No.</p> <p>2 Q Did you have any involvement in the</p> <p>3 third secured convertible promissory note, dated</p> <p>4 August 19, 2022?</p> <p>5 A No.</p> <p>6 Q Did you have any involvement in the</p> <p>7 joint written consent to the board of directors and</p> <p>8 shareholders of Takeover Industries Inc., dated</p> <p>9 August 18, 2022?</p> <p>10 A No.</p> <p>11 Q I'm trying to think of a way to short</p> <p>12 circuit this a little bit. You're aware that</p> <p>13 Mr. Deppoleto provided at least 1.5 million to</p> <p>14 Takeover; correct?</p> <p>15 A I am.</p> <p>16 Q Do you know how Takeover used that 1.5</p> <p>17 million that Mr. Deppoleto provided?</p> <p>18 A I don't. I wasn't there. My assumption</p> <p>19 is for the whole gamer shot campaign.</p> <p>20 Q Do you know whether any of it was used</p> <p>21 to fund salaries?</p> <p>22 A I don't know.</p> <p>23 Q So if it was used to fund a salary for</p> <p>24 Mr. McBride, you don't know one way or another</p> <p>25 whether that --</p>	<p style="text-align: right;">143</p> <p>1 A Okay.</p> <p>2 Q I'll ask it this way: Have you read the</p> <p>3 complaint in this case?</p> <p>4 A At various times. Yes.</p> <p>5 Q Okay. And you understand, from reading</p> <p>6 the complaint, that there was -- that Mr. Deppoleto</p> <p>7 is alleging he provided not only the 1.5 million</p> <p>8 pursuant to notes, setting those aside, he also</p> <p>9 provided supplemental loans that totaled about</p> <p>10 500,000.</p> <p>11 A I'm aware that they're in the complaint</p> <p>12 in the aggregate total of being claimed. Yes.</p> <p>13 Q About 2 million is the total; correct?</p> <p>14 A I think it's 2.1.</p> <p>15 Q Okay.</p> <p>16 A Yeah.</p> <p>17 Q Takeover received that additional</p> <p>18 supplemental loan; correct?</p> <p>19 MR. BENNION: Objection. Lacks</p> <p>20 foundation. Calls for speculation. May call for a</p> <p>21 legal conclusion.</p> <p>22 Go ahead.</p> <p>23 A I'm not aware of that.</p> <p>24 Q Did you ever look into, after looking at</p> <p>25 the complaint, whether Mr. Deppoleto was, in fact,</p>
<p style="text-align: right;">142</p> <p>1 A I don't.</p> <p>2 Q Okay. Setting aside the 1.5 million</p> <p>3 that was -- that Mr. Deppoleto provided to the note</p> <p>4 -- provided pursuant to the notes, you're also</p> <p>5 aware that Mr. Deppoleto provided additional monies</p> <p>6 that totaled about \$500,000; correct?</p> <p>7 MR. BENNION: Objection. Vague and</p> <p>8 ambiguous. Lacks foundation. May call for</p> <p>9 speculation.</p> <p>10 Go ahead.</p> <p>11 A I don't. Are you saying in addition to</p> <p>12 the 1.5?</p> <p>13 Q Correct.</p> <p>14 A He -- I -- yeah. He bought a private</p> <p>15 placement, a subscription, if you will, which he's</p> <p>16 been paid back for since my involvement.</p> <p>17 Q What do you mean by that? Can you say a</p> <p>18 little more?</p> <p>19 A I believe he paid \$500,000 for 400</p> <p>20 million shares of the parent company which, since</p> <p>21 my involvement, we have made right with</p> <p>22 Mr. Deppoleto. So he's gotten paid for that if</p> <p>23 that's what you're referring to.</p> <p>24 Q That's helpful. No, that's actually not</p> <p>25 what I'm referring to.</p>	<p style="text-align: right;">144</p> <p>1 entitled to the supplemental loans of about</p> <p>2 \$500,000?</p> <p>3 MR. BENNION: Objection. Calls for a</p> <p>4 legal conclusion.</p> <p>5 A I don't -- I do not begrudge</p> <p>6 Mr. Deppoleto and take him at his word that if</p> <p>7 those funds were sent, then they were sent for the</p> <p>8 benefit of Takeover.</p> <p>9 Q Okay. And I think I know the answer to</p> <p>10 this, but I have to ask it anyways. In terms of</p> <p>11 discussions that Mr. Deppoleto had with Takeover</p> <p>12 about additional loans in the October of 2022 and</p> <p>13 November 2022 time frame, you were not involved in</p> <p>14 any of those discussions? Fair?</p> <p>15 A Fair. Yes.</p> <p>16 MR. BENNION: Is this planned.</p> <p>17 THE WITNESS: Finally, a friendly face.</p> <p>18 MR. HARVEY: I've never had that happen</p> <p>19 before. So --</p> <p>20 MR. BENNION: Nor I.</p> <p>21 MR. HARVEY: I can't keep my water on</p> <p>22 the table. I guess we'll continue to soldier</p> <p>23 forward here. And I'll show it to you if you'd</p> <p>24 like to see it, but I will tell you that</p> <p>25 Mr. Deppoleto, through counsel, sent a first notice</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

37 (145 to 148)

145	<p>1 of default and demand for payment on November 8, 2 2022. Did you see that document at any point 3 around that time frame -- November 8, 2022? 4 A No. 5 Q Have you since seen it? 6 A I may have. I don't recall. 7 Q Were you involved in any discussions 8 with anyone from Takeover about what to do in 9 response to that November 8 notice of default? 10 MR. BENNION: Objection. Vague and 11 ambiguous. 12 Go ahead. 13 A I spoke to, I think, Jason Tucker about 14 what does all this mean, how do we get paid, how do 15 we get James handled? 16 Q So it sounds like you saw or were made 17 aware of the November 8, 2022 -- 18 A I was aware that all hell had broken 19 loose and the shit hit the fan. 20 Q Was it specifically triggered by 21 Mr. Deppoleto? 22 A Yes. 23 Q Hold on. 24 MR. BENNION: You have to let him finish 25 his question.</p>	147	<p>1 court thing all went to hell. 2 Q And what was your discussion with 3 Mr. Tucker specifically related to Mr. Deppoleto's 4 claim? 5 A That he's done. He's done. 6 Q Who's the he in that sentence? 7 A James is done. Mr. Deppoleto. 8 Q And when you say he's done -- 9 A Like, he's not going to participate any 10 further with funding Takeover. 11 Q Okay. And at that time that you had the 12 discussion with Mr. Tucker, he was still with -- 13 well, let me back up. When you had the discussion 14 with Mr. Tucker, was he disputing the amounts that 15 James was claiming he was owed? 16 A No. 17 Q So -- well, actually, let me back up. 18 Have you ever seen -- well, I'll tell you 19 Mr. Deppoleto sent a second notice of default, 20 dated November 22, 2022, and I'm happy to show it 21 to you if you'd like, but -- 22 A I trust you and him. 23 MR. BENNION: There's no question before 24 you. 25 THE WITNESS: Oh, I'm sorry.</p>
146	<p>1 THE WITNESS: Okay. Sorry. 2 MR. HARVEY: I know you know where I'm 3 going, but, again, we don't want to get in trouble 4 with the court reporter. 5 THE WITNESS: Okay. Sorry, guys. 6 Q So shortly after, fair to say, November 7 8, 2022, you were made aware of Mr. Deppoleto's 8 notice of default; correct? 9 MR. BENNION: Objection. May call for 10 speculation. Vague and ambiguous. 11 A I was aware that the hammer was coming 12 down. Specifically, a notice of default has been 13 delivered, I can't recall that, but I knew the 14 hammer was coming. 15 Q How did you know the hammer was coming 16 down? 17 A Because I was -- I had the same hammer 18 in my hand. 19 Q Okay. Who did you first talk to about 20 Mr. Deppoleto's hammer? 21 A Jason Tucker. 22 Q And you might not remember the exact 23 date, but do you remember approximately when it 24 was? 25 A My assumption is November '22 when that</p>	148	<p>1 Q Have you ever seen that second notice of 2 default? 3 A I may have. 4 Q Okay. Well, actually, let me back up. 5 You described a discussion with Mr. Tucker about 6 Mr. Deppoleto's claim. Did you discuss 7 Mr. Deppoleto's claim around November 2022 with 8 anyone from Takeover other than Mr. Tucker? 9 A I think with Mr. Deppoleto himself. 10 Q When was that discussion? 11 A Sometime around that. 12 Q Okay. And what do you remember about 13 that discussion? 14 A He was angry. 15 Q Anything else? 16 A Not specifically. My call was a -- I 17 don't want to say olive branch, but it was kind of 18 like, hey, we're in this boat. How do we get out? 19 Q Did you discuss Mr. Deppoleto's claim in 20 or around November 2022 with either Mr. Pavlick, 21 Mr. McBride, or Mr. Holley? 22 A If not then, soon after, but -- 23 Q You don't -- what do you remember? 24 Well, with all three of them or with one of them or 25 --</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

38 (149 to 152)

149	<p>1 A Probably, at that point, all three.</p> <p>2 Q And what do you remember about that</p> <p>3 discussion?</p> <p>4 A How do I get paid? What's going on?</p> <p>5 Like, what is really going on here? Like, how can</p> <p>6 this even be, like, not a movie at this point.</p> <p>7 Q And in terms of Mr. Deppoleto's claim,</p> <p>8 did you discuss Mr. Deppoleto's claim with him?</p> <p>9 A I'm sure it came up. I don't remember</p> <p>10 specifically, Mr. Harvey.</p> <p>11 Q Do you remember them disputing any part</p> <p>12 of Mr. Deppoleto's claim?</p> <p>13 A Yes. They felt very wronged by</p> <p>14 Mr. Deppoleto.</p> <p>15 Q What do you mean by that?</p> <p>16 A He came in and left, and he short-</p> <p>17 circuited all the opportunities with the company.</p> <p>18 Q But in terms of the amount he was</p> <p>19 claiming from the amount of --</p> <p>20 A I don't think anybody's -- I'm sorry.</p> <p>21 Q Were they disputing the amount he was</p> <p>22 claiming he was owed from the company?</p> <p>23 A Nobody's disputing the money, that 1.5</p> <p>24 for sure was put into Takeover and that the other</p> <p>25 dollars are being claimed. I think the dispute</p>	151	<p>1 not. Not on the notes if that's what you mean. I</p> <p>2 can point to a decision that points to there's</p> <p>3 concerns with the notes. That we can point to.</p> <p>4 Q Are you aware of the supplemental --</p> <p>5 you're talking about the Arizona judge; correct?</p> <p>6 A Yes, yes, yes, Mr. Harvey.</p> <p>7 Q Are you aware of the Arizona judge</p> <p>8 requiring your Nevada counsel to file a</p> <p>9 clarification in the Nevada court --</p> <p>10 A Yes.</p> <p>11 Q -- about that very point?</p> <p>12 A Yeah. Not about that very point. I do</p> <p>13 remember there was a not so happy judge in Arizona</p> <p>14 with a Nevada statement. I do not know</p> <p>15 specifically what that referred to.</p> <p>16 Q Okay. In any event, when you discussed</p> <p>17 with Mr. McBride, Mr. Pavlik, and Mr. Holley, in</p> <p>18 terms of the specific dollar amount that</p> <p>19 Mr. Deppoleto was claiming, did they say, yeah,</p> <p>20 that dollar amount is not right or words to that</p> <p>21 effect?</p> <p>22 MR. BENNION: Objection. Vague and</p> <p>23 ambiguous.</p> <p>24 A Only that it wasn't -- they didn't feel</p> <p>25 it was due.</p>
150	<p>1 arises in the validity of the debt, not the money</p> <p>2 that went in. So their position at that time is we</p> <p>3 don't owe him the money because these obligations</p> <p>4 were not done properly.</p> <p>5 Q But they admitted receiving the money?</p> <p>6 A I think nobody argued. I mean, wires</p> <p>7 show money in.</p> <p>8 Q Correct.</p> <p>9 A The company received the money. If</p> <p>10 that's what you're asking, the company received the</p> <p>11 money.</p> <p>12 A Correct. So why were they disputing it?</p> <p>13 Q I don't believe -- I believed at that</p> <p>14 time they were saying that the notes were all done</p> <p>15 in a fraudulent fashion and that they weren't</p> <p>16 signed with the proper authority, and I believe the</p> <p>17 judge, to some degree, agreed with them in the</p> <p>18 Arizona case.</p> <p>19 Q Have you seen a written decision that</p> <p>20 actually says that, I guess? I've had the same</p> <p>21 conversation in depositions with the other</p> <p>22 witnesses, and no one seems to be able to point me</p> <p>23 to a written decision that actually says that. Are</p> <p>24 you aware of a written decision that says that?</p> <p>25 A I am not. I am not. I -- yeah, I am</p>	152	<p>1 Q But in terms of the dollar figure?</p> <p>2 A No. Everybody agrees that that 1.5 plus</p> <p>3 is mostly valid.</p> <p>4 Q And when you say plus, the additional</p> <p>5 500-, 600,000?</p> <p>6 A Yeah. I don't think anybody's trying to</p> <p>7 get cute there, but I don't have all the specifics.</p> <p>8 Q Okay. Okay. So I --</p> <p>9 A And, Mr. Harvey, may I? Nobody, again,</p> <p>10 is begrudging James Deppoleto. Okay? I still hope</p> <p>11 to get to a point where we can have a conversation</p> <p>12 with him, and I've worked very hard to have that</p> <p>13 conversation to prevent all of this.</p> <p>14 Q I appreciate it.</p> <p>15 A So I'm not going to come out now and say</p> <p>16 he this, he that, you know.</p> <p>17 Q I appreciate that. In terms of the --</p> <p>18 so I pointed you to -- again, I'll show it to you</p> <p>19 if you'd like -- the November '22 second notice of</p> <p>20 default. After that came in, did you have any</p> <p>21 discussions with anyone at Takeover about the</p> <p>22 second notice of default?</p> <p>23 A Not specifically.</p> <p>24 Q Did you have any discussions at all</p> <p>25 about Mr. Deppoleto's claim on or shortly after</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

39 (153 to 156)

<p style="text-align: right;">153</p> <p>1 November 2022?</p> <p>2 MR. BENNION: Objection. Asked and</p> <p>3 answered.</p> <p>4 MR. HARVEY: Go ahead.</p> <p>5 A Oh, what was the question again?</p> <p>6 Q After November 2022 -- so before I had</p> <p>7 asked you about the first notice of default, which</p> <p>8 was dated November 8, 2022, and I said, did you</p> <p>9 talk to anyone from Takeover? And you said, yes,</p> <p>10 Tucker, and then I spoke to the three other --</p> <p>11 Pavlik --</p> <p>12 A After. Yeah, soon after. Like, what's</p> <p>13 going on?</p> <p>14 Q Right.</p> <p>15 A Yeah.</p> <p>16 Q That was after the first notice of</p> <p>17 default which was --</p> <p>18 A I would assume.</p> <p>19 Q -- November 8. My question -- I'm</p> <p>20 asking you basically the same thing but after</p> <p>21 November '22.</p> <p>22 A Same answer. Same answer.</p> <p>23 Q So you spoke to both Mr. -- well, did</p> <p>24 you speak to Mr. Tucker individually?</p> <p>25 A Yes.</p>	<p style="text-align: right;">155</p> <p>1 A Not to my knowledge. No.</p> <p>2 Q Did you have a discussion with</p> <p>3 Mr. Deppoleto after November 2022?</p> <p>4 A Yes.</p> <p>5 Q What do you remember about -- was it one</p> <p>6 discussion or several?</p> <p>7 A We've talked many times.</p> <p>8 Q What do you remember about -- does</p> <p>9 anything stick out about those discussions?</p> <p>10 A I mean, we both share a common disdain</p> <p>11 for what took place prior to -- you know, during</p> <p>12 his involvement. And in these time frames, most of</p> <p>13 our conversations have been towards trying to get</p> <p>14 him monetized for his investment in Takeover, which</p> <p>15 we've done, and get him settled on his outstanding</p> <p>16 claims and put this litigation to bed in hopes that</p> <p>17 maybe Takeover could become something.</p> <p>18 Q As far as you're aware, after</p> <p>19 Mr. Deppoleto sent these two notices, did Takeover</p> <p>20 begin a process to repay Mr. Deppoleto's loans?</p> <p>21 A I don't think there was any ability.</p> <p>22 Q So you're not aware of any processes?</p> <p>23 A I'm not aware.</p> <p>24 Q We were talking briefly a moment ago</p> <p>25 about the proposed spinoff or spinout of Takeover.</p>
<p style="text-align: right;">154</p> <p>1 Q What do you remember about that</p> <p>2 discussion?</p> <p>3 A All geared towards what are we going to</p> <p>4 do to fix this.</p> <p>5 Q And in that discussion, he, again, was</p> <p>6 not disputing Mr. Deppoleto's claim; true?</p> <p>7 A He was not.</p> <p>8 Q And then you had -- if I'm understanding</p> <p>9 you correctly, you had a different discussion than</p> <p>10 that, but you had one with Mr. Pavlik, Mr. McBride,</p> <p>11 and Mr. Holley; correct?</p> <p>12 A Correct.</p> <p>13 Q What do you remember about that</p> <p>14 discussion?</p> <p>15 MR. BENNION: Objection. Asked and</p> <p>16 answered.</p> <p>17 A Again, same answer -- that they believed</p> <p>18 that a lot of the -- there was fraud in the way the</p> <p>19 notes were done and that, while the dollars came</p> <p>20 into the account, they weren't necessarily</p> <p>21 authorized by them. That was their contention.</p> <p>22 Q Setting aside Mr. Tucker, Mr. Pavlik,</p> <p>23 Mr. McBride, and Mr. Holly, did you discuss</p> <p>24 Mr. Deppoleto's claims with anyone else with any</p> <p>25 affiliation with Takeover or Labor Smart?</p>	<p style="text-align: right;">156</p> <p>1 Do you know whose idea it was to do that?</p> <p>2 A I think Jason Tucker.</p> <p>3 Q And do you know what specific actions,</p> <p>4 if any, were taken in order to facilitate that or</p> <p>5 attempt to facilitate that?</p> <p>6 A He engaged an auditor, and he engaged</p> <p>7 legal counsel.</p> <p>8 Q Anything else?</p> <p>9 A No.</p> <p>10 Q Do you know why -- well, we agree that</p> <p>11 Takeover is not public today; correct?</p> <p>12 A It's public through its parent company.</p> <p>13 No. Excuse me. Takeover is a private company.</p> <p>14 Q Do you know why the spinout or spinoff</p> <p>15 didn't occur?</p> <p>16 A Because the work that was necessary to</p> <p>17 follow up with those engaged auditors and engaged</p> <p>18 legal counsel was not done.</p> <p>19 Q Do you know why?</p> <p>20 A I have a suspicion.</p> <p>21 Q What's your suspicion?</p> <p>22 A It required a lot of work, Mr. Harvey.</p> <p>23 Q And what do you mean by that?</p> <p>24 A There's a lot of work that takes place</p> <p>25 to get a company trading that's been delisted, and</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

40 (157 to 160)

<p style="text-align: right;">157</p> <p>1 I believe Mr. Tucker chose not to pursue that that</p> <p>2 work.</p> <p>3 Q Well, Takeover wasn't delisted, though;</p> <p>4 correct?</p> <p>5 A It was never publicly listed. It was</p> <p>6 never listed.</p> <p>7 Q And so my question was why wasn't</p> <p>8 Takeover spun out as contemplated?</p> <p>9 A Because the work was never done.</p> <p>10 Q Do you know why?</p> <p>11 A I do not.</p> <p>12 Q To your knowledge, did anyone from</p> <p>13 Takeover seek Mr. Deppoleto's consent to spin out</p> <p>14 Takeover?</p> <p>15 A I wasn't there at the time. I had no</p> <p>16 conversations with Mr. Deppoleto and Mr. Tucker as</p> <p>17 it relates to what they were doing with the</p> <p>18 company.</p> <p>19 Q And I'm asking you, as you sit here</p> <p>20 today, are you aware of anyone seeking</p> <p>21 Mr. Deppoleto's consent to spin out Takeover?</p> <p>22 A I'm not aware. I wasn't there.</p> <p>23 Q Okay. Even today are you aware?</p> <p>24 Looking back, did anyone tell you we sought his</p> <p>25 consent?</p>	<p style="text-align: right;">159</p> <p>1 Q Did you have any involvement whatsoever</p> <p>2 in the decision to file the Takeover v. Holley</p> <p>3 lawsuit in Arizona?</p> <p>4 A No.</p> <p>5 Q You've seen the complaint from that</p> <p>6 case; correct?</p> <p>7 A I'm aware of it.</p> <p>8 Q When was the first time you saw the</p> <p>9 complaint or (crosstalk)?</p> <p>10 A I think through the public filings.</p> <p>11 Q Now as of March 8, 2022, were you on the</p> <p>12 Takeover Board of Directors at that time?</p> <p>13 A No.</p> <p>14 Q Did you ever review the complaint before</p> <p>15 it was filed?</p> <p>16 A No.</p> <p>17 Q Did you provide any information that was</p> <p>18 used in the complaint?</p> <p>19 A No.</p> <p>20 Q Do you know who approved filing the</p> <p>21 complaint?</p> <p>22 A No. Do you know whether Takeover</p> <p>23 notified Mr. Deppoleto about the Arizona litigation</p> <p>24 before it was filed?</p> <p>25 A I'm not aware. No.</p>
<p style="text-align: right;">158</p> <p>1 A I'm not aware of anybody specifically.</p> <p>2 Q Do you know whether Takeover made public</p> <p>3 its intention to spin out Takeover?</p> <p>4 A They did.</p> <p>5 Q Through what medium?</p> <p>6 A Social media, press releases.</p> <p>7 Q When was this?</p> <p>8 A I'm sure later 2021 and 2022 through</p> <p>9 that whole period leading up to the insanity of</p> <p>10 November '22.</p> <p>11 Q Okay.</p> <p>12 A That's what kept the shareholders</p> <p>13 engaged.</p> <p>14 Q You've described the Arizona lawsuit a</p> <p>15 couple of times in the last, you know, 10, 15</p> <p>16 minutes. I believe it was filed on March 8, 2022.</p> <p>17 Did you have any involvement in the decision to</p> <p>18 file that lawsuit against Mr. Holley?</p> <p>19 A Say the dates again, Mr. Harvey?</p> <p>20 Q I believe the lawsuit was filed on March</p> <p>21 8, 2022, and I can get you --</p> <p>22 A March 8th. Okay.</p> <p>23 Q I can get you a copy of that.</p> <p>24 A Okay. No, no, no. Okay. Now ask your</p> <p>25 question, please.</p>	<p style="text-align: right;">160</p> <p>1 Q Okay. And it's my understanding that</p> <p>2 Takeover filed a stipulation to dismiss all claims</p> <p>3 against Michael Holley and his wife, Chirine, C-H-</p> <p>4 I-R-I-N-E.</p> <p>5 A Possible.</p> <p>6 Q Did you -- well, are you aware of that?</p> <p>7 A That was all before my time.</p> <p>8 Q Okay. So did you have any decision --</p> <p>9 any input or involvement in the decision to dismiss</p> <p>10 those claims against --</p> <p>11 A No.</p> <p>12 Q -- Mr. Holley and his wife?</p> <p>13 A No.</p> <p>14 Q Were you on -- and that was -- I believe</p> <p>15 the stipulation to dismiss those claims was in</p> <p>16 February 2023. Were you on the Takeover Board of</p> <p>17 Directors in February of 2023?</p> <p>18 A I was not.</p> <p>19 Q Do you know who at Takeover made the</p> <p>20 decision to dismiss the claims against Mr. Holley</p> <p>21 and his wife?</p> <p>22 A I'm assuming it was Toby, Mike, and Joe</p> <p>23 with their legal counsel.</p> <p>24 Q Toby McBride, Mike Holley, and</p> <p>25 Joe Pavlik?</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

41 (161 to 164)

<p style="text-align: right;">161</p> <p>1 A Correct.</p> <p>2 Q Do you know why Takeover decided to</p> <p>3 dismiss those claims against the Holleys?</p> <p>4 A No.</p> <p>5 Q Do you know whether Takeover received</p> <p>6 any meaningful consideration in exchange for</p> <p>7 dismissing the claims against the Holleys?</p> <p>8 MR. BENNION: Objection. Vague and</p> <p>9 ambiguous.</p> <p>10 A I'm not aware. I mean, specifically, I</p> <p>11 don't know the terms.</p> <p>12 Q And when I say meaningful consideration,</p> <p>13 are you aware of Takeover receiving any money or</p> <p>14 any other thing of value in exchange for dismissing</p> <p>15 the claims against the Holleys?</p> <p>16 A I am not aware.</p> <p>17 Q Do you know whether Takeover obtained</p> <p>18 Mr. Deppoleto's consent to dismiss the claims</p> <p>19 against the Holleys?</p> <p>20 A I am not aware.</p> <p>21 MR. HARVEY: Okay. Let me show you</p> <p>22 another --</p> <p>23 THE WITNESS: Can we take, like, a</p> <p>24 five-minute break?</p> <p>25 MR. HARVEY: Oh, yeah.</p>	<p style="text-align: right;">163</p> <p>1 A I do.</p> <p>2 Q Who's that?</p> <p>3 A That's the audit firm. The PCAOB audit</p> <p>4 firm.</p> <p>5 Q Okay. And it says, The following</p> <p>6 information relating to amount owed by me to</p> <p>7 Takeover Industries Inc, as of December 31, 2021,</p> <p>8 agrees to my records: due from related party as on</p> <p>9 December 31, 2021, \$243,000 -- 200 -- oh, 243, 250</p> <p>10 -- strike that. \$243,253.84. Do you see that?</p> <p>11 A Yes.</p> <p>12 Q And then it's signed by Toby McBride;</p> <p>13 correct?</p> <p>14 A Yes.</p> <p>15 Q So this is telling us that Toby McBride</p> <p>16 is admitting to owning Takeover Industries \$243,000</p> <p>17 and change as of December 31, 2021; correct?</p> <p>18 A That's what it appears like.</p> <p>19 Q Okay. Do you disagree with this</p> <p>20 document?</p> <p>21 A I believe that has proven not to be --</p> <p>22 like, a lot of those expenses were business</p> <p>23 expenses.</p> <p>24 Q Do you have any idea why Mr. McBride</p> <p>25 would say -- would sign something saying he owes</p>
<p style="text-align: right;">162</p> <p>1 MR. BENNION: Yes. Absolutely.</p> <p>2 MR. HARVEY: Yeah.</p> <p>3 THE VIDEOGRAPHER: We're going off the</p> <p>4 record. The time is 11:22 a.m.</p> <p>5 (Off the record.)</p> <p>6 (On the record.)</p> <p>7 THE VIDEOGRAPHER: We are back on the</p> <p>8 record. The time is 11:31 a.m.</p> <p>9 MR. HARVEY: I'm going to hand you what</p> <p>10 was previously marked as Holley Exhibit 10.</p> <p>11 (Holley Exhibit 10, previously marked, was</p> <p>12 identified.)</p> <p>13 BY MR. HARVEY:</p> <p>14 Q Have you ever seen that document,</p> <p>15 Mr. Zarro?</p> <p>16 A What have we got here?</p> <p>17 Q So just to orient ourselves, it says,</p> <p>18 Related Party Receivable Confirmation. It's dated</p> <p>19 March 25, 2022, at the top. Do you see that?</p> <p>20 A Yes.</p> <p>21 Q Have you seen that before today?</p> <p>22 A No, not to my recollection.</p> <p>23 Q It says, The following information --</p> <p>24 well, actually, let me back up. Do you know who BF</p> <p>25 Brogers, CPA PC --</p>	<p style="text-align: right;">164</p> <p>1 \$243,000 to the company?</p> <p>2 A There are many things that happened</p> <p>3 before my involvement that make no sense.</p> <p>4 Q And this is from Takeover's auditors,</p> <p>5 though; correct?</p> <p>6 A Well, it's -- no. It's from the</p> <p>7 auditor, but the source of the information is not</p> <p>8 -- like, the auditor just accounts. Doesn't</p> <p>9 instruct, doesn't direct.</p> <p>10 Q Is there anything in here indicating</p> <p>11 that the auditor disagrees that Mr. McBride owes</p> <p>12 243,000?</p> <p>13 A No.</p> <p>14 Q Would you sign something saying I owe</p> <p>15 \$243,000 if you didn't, in fact, owe?</p> <p>16 A No. No. There we agree, Mr. Harvey.</p> <p>17 Q Okay. Do you know -- well, did you ever</p> <p>18 tell Mr. Deppoleto about Mr. McBride owing Takeover</p> <p>19 \$243,000?</p> <p>20 A No. This was -- no -- all before my</p> <p>21 time.</p> <p>22 Q Are you aware of anyone from Takeover</p> <p>23 telling Mr. Deppoleto that Mr. McBride owed</p> <p>24 Takeover 243,000?</p> <p>25 A I am not aware.</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

42 (165 to 168)

<p style="text-align: right;">165</p> <p>1 MR. HARVEY: Okay. You can put that one</p> <p>2 on the pile.</p> <p>3 Q We talked briefly before about directors</p> <p>4 and officers' liability insurance for Takeover, and</p> <p>5 you said that you made sure that that was put in</p> <p>6 place sometime after April 2023; correct?</p> <p>7 A It was my instruction.</p> <p>8 Q Do you know what the liability limits</p> <p>9 were?</p> <p>10 A I don't.</p> <p>11 Q Do you know who the carrier was?</p> <p>12 A I don't.</p> <p>13 Q Who actually -- you said you made sure</p> <p>14 that it got put in place, but who actually executed</p> <p>15 to make sure that --</p> <p>16 A Mike Holley.</p> <p>17 Q Mike Holley.</p> <p>18 MR. HARVEY: All right. This will be</p> <p>19 Exhibit 7.</p> <p>20 (Exhibit 7 was marked for identification.)</p> <p>21 Q This is dated March 23, 2023; correct?</p> <p>22 A (No verbal response.)</p> <p>23 Q And it says Labor Smart, Inc. to the --</p> <p>24 A Okay. Yep.</p> <p>25 Q 0.0002 per unit private placement</p>	<p style="text-align: right;">167</p> <p>1 A When I take the time and insist that</p> <p>2 they be issued which is coming very soon.</p> <p>3 MR. HARVEY: Probably after this</p> <p>4 deposition.</p> <p>5 THE WITNESS: Yeah.</p> <p>6 MR. BENNION: There's no question before</p> <p>7 you.</p> <p>8 THE WITNESS: Oh, sorry.</p> <p>9 MR. HARVEY: You can put that one in the</p> <p>10 file.</p> <p>11 THE WITNESS: I don't know how you guys</p> <p>12 do this.</p> <p>13 MR. HARVEY: All right. I've handed you</p> <p>14 what we marked as Zarro Exhibit 8.</p> <p>15 (Exhibit 8 was marked for identification.)</p> <p>16 THE WITNESS: Good times.</p> <p>17 Q Do you recognize this document?</p> <p>18 A I do.</p> <p>19 Q Can you just generally describe what is</p> <p>20 it.</p> <p>21 A It looks like a payment plan to pay one</p> <p>22 of the providers that the company had prior to my</p> <p>23 involvement. Just evidence to your point -- what</p> <p>24 was I doing trying to help Takeover. There you go.</p> <p>25 Q Okay.</p>
<p style="text-align: right;">166</p> <p>1 agreement of Labor Smart, Inc.; correct?</p> <p>2 A Yes.</p> <p>3 Q Do you recognize this document?</p> <p>4 A Yes. And not specifically, but yes.</p> <p>5 Q And pursuant to this agreement, you</p> <p>6 received 165 million shares of Labor Smart in</p> <p>7 exchange for your payment of \$33,000; correct?</p> <p>8 A I don't believe I've received those</p> <p>9 shares yet, but they're owed. They're due me.</p> <p>10 Q Okay. When did you make that \$33,000</p> <p>11 payment to Labor Smart?</p> <p>12 A It looks like March '23.</p> <p>13 Q Okay. How did Labor Smart intend to use</p> <p>14 your investment in the company?</p> <p>15 A I don't know. I don't recall. I</p> <p>16 shouldn't say I don't know. I don't recall.</p> <p>17 Q Did you have any discussions before you</p> <p>18 came to this agreement with anyone from Labor</p> <p>19 Smart?</p> <p>20 A I'm sure. I'm sure.</p> <p>21 Q All right. You don't remember anything</p> <p>22 specific?</p> <p>23 A Not specifically.</p> <p>24 Q When are you going to receive those</p> <p>25 shares?</p>	<p style="text-align: right;">168</p> <p>1 A Right there.</p> <p>2 Q At the top, it's called Proposed Term</p> <p>3 Sheet; correct?</p> <p>4 A Mm-hmm.</p> <p>5 Q Yes?</p> <p>6 A Yes, sir.</p> <p>7 Q And then the date is April 14, 2023;</p> <p>8 correct?</p> <p>9 A Yes.</p> <p>10 Q So does that narrow the time? Well, let</p> <p>11 me -- let me back up. You signed at the bottom</p> <p>12 left corner; correct?</p> <p>13 A I did.</p> <p>14 Q So that helps us narrow it down that, at</p> <p>15 least as of April 14, 2023, you were CEO of the</p> <p>16 company and able to sign documents on its behalf.</p> <p>17 Is that fair?</p> <p>18 A I don't know if April is the drop-dead</p> <p>19 date, but it looks like I was making moves.</p> <p>20 Q What is Boost Transport?</p> <p>21 A That's the fulfillment company.</p> <p>22 Q What's a fulfillment company?</p> <p>23 A Shipping, receiving, storage, 3PL.</p> <p>24 Q 3PO. What's that?</p> <p>25 A 3PL, third-party logistics.</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

43 (169 to 172)

169	<p>1 Q Is that who owns the warehouse?</p> <p>2 A Yes.</p> <p>3 Q Who's Dusty Benefield?</p> <p>4 A One of the managers there. One of the</p> <p>5 principals or managers.</p> <p>6 Q Okay. And what's the purpose of this</p> <p>7 term sheet?</p> <p>8 A To settle the debt. We owed them</p> <p>9 \$80,000. We were trying to make it right and</p> <p>10 maintain the services.</p> <p>11 Q Why did it Takeover owe Boost about</p> <p>12 \$84,000.</p> <p>13 A Because Jason, the previous management,</p> <p>14 decided to send a bunch of product to every</p> <p>15 7-Eleven in the country and created a shipping bill</p> <p>16 that they didn't -- couldn't pay.</p> <p>17 Q Did Takeover fully repay Boost?</p> <p>18 A No.</p> <p>19 Q How much -- well, does it still owe</p> <p>20 Boost?</p> <p>21 A No. They issued shares in settlement.</p> <p>22 A couple payments were made. Cash was scarce. So</p> <p>23 then shares were issued.</p> <p>24 Q Shares in Labor Smart?</p> <p>25 A Correct.</p>	171
170	<p>1 Q How many shares? Do you know?</p> <p>2 A I want to say 25 million, but I'm not</p> <p>3 sure.</p> <p>4 Q Do you know how much -- you said there</p> <p>5 were a couple of payments? Do you know how much</p> <p>6 those payments amounted to?</p> <p>7 A Not off the top of my head.</p> <p>8 MR. HARVEY: Okay. You can set that one</p> <p>9 aside. I've handed you what we marked as Exhibit</p> <p>10 9.</p> <p>11 (Exhibit 9 was marked for identification.)</p> <p>12 THE WITNESS: Thank you.</p> <p>13 MR. HARVEY: And this is --</p> <p>14 THE WITNESS: I appreciate the reminder.</p> <p>15 Q This is -- at the top, it says Labor</p> <p>16 Smart, Inc., the same similar numbers, Private</p> <p>17 Placement Agreement, and it looks like it's dated</p> <p>18 June '23 or June 2023; is that correct?</p> <p>19 A Yes.</p> <p>20 Q What is this?</p> <p>21 A It's another investment I've made to try</p> <p>22 and keep the company afloat.</p> <p>23 Q Now, as I flip through this, I don't see</p> <p>24 signatures actually on it. Do you know whether</p> <p>25 there's an executed version of this document?</p>	172
	<p>1 A I don't. I don't.</p> <p>2 Q If you flip to DEF509, so the very last</p> <p>3 page -- the very last page --</p> <p>4 A I must have given you this.</p> <p>5 Q -- that's confirmation that you actually</p> <p>6 paid \$50,000 to Labor Smart; correct?</p> <p>7 A Yes.</p> <p>8 Q And you made that payment on June 22,</p> <p>9 2023; correct?</p> <p>10 A Yeah. Uh-huh.</p> <p>11 Q So having refreshed your memory a touch,</p> <p>12 seeing the payment confirmation, does this refresh</p> <p>13 your memory at all about whether there's a fully</p> <p>14 executed document?</p> <p>15 A I really don't know if it's been fully</p> <p>16 executed. For all I know, it's sitting in my</p> <p>17 DocuSign inside or --</p> <p>18 Q Okay.</p> <p>19 A I believe it's a valid document, if</p> <p>20 that's what you're after, Mr. Harvey.</p> <p>21 Q I was just wondering if there's a</p> <p>22 different version of this or if you believe this is</p> <p>23 the final version. It just hasn't been signed.</p> <p>24 A I believe this is the final version.</p> <p>25 Q Okay. And on the first page, it tells</p>	
	<p>1 us that you are receiving 250 million shares of</p> <p>2 Labor Smart; correct?</p> <p>3 A Yep.</p> <p>4 Q For the payment of \$50,000; correct?</p> <p>5 A Yep.</p> <p>6 Q And then if you go on to the next page,</p> <p>7 DEF494, it says, Private -- in the middle of the</p> <p>8 page -- it says, Private placement subscription</p> <p>9 agreement to Labor Smart, Inc., care of Next Gen</p> <p>10 Beverages LLC; correct?</p> <p>11 A Mm-hmm.</p> <p>12 Q Yes?</p> <p>13 A Yes.</p> <p>14 Q So what is going on with this particular</p> <p>15 subscription agreement?</p> <p>16 A In what respect?</p> <p>17 Q Well, what led to this?</p> <p>18 A The company needed money to survive.</p> <p>19 Q Which company?</p> <p>20 A Labor Smart, Next Gen, and Takeover.</p> <p>21 Q So explain that to me if you would. I</p> <p>22 don't --</p> <p>23 A Labor Smart's the parent company. It's</p> <p>24 got two subsidiaries -- Next Gen and Takeover. At</p> <p>25 any one time any one of them needs money, and the</p>	

Transcript of Thomas Zarro
Conducted on November 21, 2024

44 (173 to 176)

173	<p>1 money will come in through the only operating bank</p> <p>2 account for Next Gen. It is this one. So the</p> <p>3 money came in, and then it'll be disbursed as</p> <p>4 needed.</p> <p>5 Q So why is it specifically pointing to</p> <p>6 Next Gen Beverages, though?</p> <p>7 A That's the name of the bank account.</p> <p>8 The bank account is in Next Gen Beverages' name.</p> <p>9 Q So you invested \$50,000 in June of 2023;</p> <p>10 correct?</p> <p>11 A Yes.</p> <p>12 Q And that money did not go to Takeover;</p> <p>13 correct?</p> <p>14 A I cannot say that. It may have. It may</p> <p>15 have been loaned, paid a bill for. It's possible.</p> <p>16 Q Do you think it would say Next Gen</p> <p>17 Beverages if it was really going to Takeover?</p> <p>18 A Yeah.</p> <p>19 Q Why do you say that?</p> <p>20 A Next Gen is the operating account, if</p> <p>21 you will, for the parent company until the parent</p> <p>22 company gets its own operating account.</p> <p>23 Q So Next Gen's money is Takeover's money?</p> <p>24 A No.</p> <p>25 MR. BENNION: Objection. Calls for</p>	175	<p>1 did you make any other investments in Labor Smart?</p> <p>2 A Yes.</p> <p>3 Q When?</p> <p>4 A I don't have the dates.</p> <p>5 Q And if you don't have the specific</p> <p>6 dates, that's fine.</p> <p>7 A Just periodically. Like, periodically.</p> <p>8 Q Ballpark? Well, let me ask. How many?</p> <p>9 A Probably six or eight.</p> <p>10 Q And from when to when?</p> <p>11 A I would say, like, use this date and</p> <p>12 then go forward to current. So from June to</p> <p>13 November '24.</p> <p>14 Q Are they all pursuant to similar private</p> <p>15 placement agreements like this one we're looking</p> <p>16 at?</p> <p>17 A Yes. Yes.</p> <p>18 Q So they're all documented?</p> <p>19 A Yes.</p> <p>20 MR. HARVEY: I don't believe those have</p> <p>21 been produced, Counselor. I'd make a request for</p> <p>22 those.</p> <p>23 THE WITNESS: I --</p> <p>24 MR. BENNION: No. There's no question</p> <p>25 for you.</p>
174	<p>1 legal conclusion.</p> <p>2 Go ahead.</p> <p>3 Q So explain that, then -- I'm not</p> <p>4 following -- if you would.</p> <p>5 A Next Gen is the operating bank account</p> <p>6 for all the entities right now. For example, we</p> <p>7 just had our filings done. We had to pay an</p> <p>8 accountant. The filings were for Takeover, Next</p> <p>9 Gen, and Labor Smart. Next Gen wrote the check.</p> <p>10 Q Does Takeover have its own bank account?</p> <p>11 A It does.</p> <p>12 Q And yet Next Gen -- the Next Gen bank</p> <p>13 account was used to pay for Takeover's services.</p> <p>14 A It's hard to break out.</p> <p>15 Q Why do you say that?</p> <p>16 A Well, we didn't take -- you know, if the</p> <p>17 bill was \$10,000, we didn't take money from Next</p> <p>18 Gen, put 3,000 into Takeover and now to take that</p> <p>19 3,000, pay the accountant. It was just all paid</p> <p>20 through Next Gen.</p> <p>21 Q So Next Gen is paying Takeover debts;</p> <p>22 correct?</p> <p>23 A I think if you drill down, you'd</p> <p>24 probably find some of that to be true.</p> <p>25 Q Okay. After this June 2023 investment,</p>	176	<p>1 THE WITNESS: Okay.</p> <p>2 MR. BENNION: He's talking to me.</p> <p>3 THE WITNESS: Okay.</p> <p>4 MR. BENNION: And so this is the last</p> <p>5 one you have?</p> <p>6 MR. HARVEY: Yeah. Otherwise, I would</p> <p>7 have questions about the other ones.</p> <p>8 MR. BENNION: Right. Okay. Understood.</p> <p>9 MR. HARVEY: Okay.</p> <p>10 BY MR. HARVEY:</p> <p>11 Q So there's been six to eight others.</p> <p>12 Were they all approximately 50,000 or similar in</p> <p>13 value?</p> <p>14 A Some more, some less.</p> <p>15 Q Do you remember what the biggest one</p> <p>16 was?</p> <p>17 A I think 125.</p> <p>18 Q When was that approximately?</p> <p>19 A Last month. Actually, hang on. Maybe</p> <p>20 September. In the last couple of months,</p> <p>21 Mr. Harvey.</p> <p>22 Q Do you know what those funds were going</p> <p>23 to be used for?</p> <p>24 A For Labor Smart to acquire another</p> <p>25 company.</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

45 (177 to 180)

<p>177</p> <p>1 Q What company is that?</p> <p>2 A A private company and Illumination</p> <p>3 Holdings. It just did a acquisition -- all in the</p> <p>4 public filings.</p> <p>5 Q You said a couple things I'm not sure I</p> <p>6 was quite tracking. So you made the payment</p> <p>7 because Labor was going to acquire another company.</p> <p>8 Was that company Illumination Holdings?</p> <p>9 A Illumination Holdings. It needed money.</p> <p>10 Yeah. Labor Smart needed money to --</p> <p>11 Q Hold on. I think we're talking over</p> <p>12 each other. Was the money for Labor Smart to</p> <p>13 acquire Illumination Holdings, or was the money for</p> <p>14 Illumination Holdings to purchase another company?</p> <p>15 A No. The money was to fulfill an</p> <p>16 acquisition for Labor Smart for two companies.</p> <p>17 There's one company that I don't want to name.</p> <p>18 It's top secret and very confidential for</p> <p>19 competitive reasons, and the other one was</p> <p>20 Illumination.</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p> <p>25 [REDACTED]</p>	<p>179</p> <p>1 [REDACTED]</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p> <p>25 [REDACTED]</p>
<p>178</p> <p>1 [REDACTED]</p> <p>2 se [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p> <p>25 [REDACTED]</p>	<p>180</p> <p>1 [REDACTED]</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p> <p>25 [REDACTED]</p>

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Transcript of Thomas Zarro
Conducted on November 21, 2024

46 (181 to 184)

<p>181</p> <p>1 [REDACTED]</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p> <p>25 [REDACTED]</p>	<p>183</p> <p>1 BY MR. HARVEY:</p> <p>2 Q And these are your responses to</p> <p>3 Plaintiff's first set of interrogatories; correct?</p> <p>4 A Yes.</p> <p>5 Q Let me back up. I want to ask you one</p> <p>6 precursor question as we're here today. I think I</p> <p>7 asked you before, but I want to make sure: Are</p> <p>8 Takeover's liabilities worth more than its assets</p> <p>9 right now?</p> <p>10 A Yes.</p> <p>11 Q Since when?</p> <p>12 A Like, probably the second day they</p> <p>13 operated in business.</p> <p>14 Q In 2021?</p> <p>15 A Yeah.</p> <p>16 Q So it's -- Takeover's assets has</p> <p>17 essentially never been worth -- have never been</p> <p>18 greater than its liabilities; is that correct?</p> <p>19 A I would -- yeah.</p> <p>20 Q Okay. If you could look at Exhibit 10</p> <p>21 and in particular Interrogatory No. 2, which is on</p> <p>22 page 3, it asks you individually to describe in</p> <p>23 detail any efforts that Takeover made to repay</p> <p>24 Mr. Deppoleto and produce documents, communications</p> <p>25 that reflect those efforts.</p>
<p>182</p> <p>1 [REDACTED]</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 I'm going to hand you another exhibit.</p> <p>23 You can put that one on the pile. This will be</p> <p>24 Zarro Exhibit 10.</p> <p>25 (Exhibit 10 was marked for identification.)</p>	<p>184</p> <p>1 The first portion of your answer says,</p> <p>2 After Takeover was able to get rid of Jason, there</p> <p>3 was nothing left but debts. The company's assets</p> <p>4 were gone. The bank account -- I think you meant</p> <p>5 bank accounts -- or bank account was empty, and</p> <p>6 Jason had left various debts incurred; correct?</p> <p>7 A Yes.</p> <p>8 Q When did Takeover, quote, get rid of</p> <p>9 Jason?</p> <p>10 A I -- that was before my time.</p> <p>11 Q Okay. Do you know the total amount of</p> <p>12 debt that Takeover owed at that time?</p> <p>13 A I think it's between 4 and \$5 million.</p> <p>14 Q And some of that was Mr. Deppoleto's?</p> <p>15 A Yes.</p> <p>16 Q Has Takeover brought in any revenue</p> <p>17 since Mr. Tucker was let go?</p> <p>18 A Nothing meaningful that I can think of.</p> <p>19 Q When you say meaningful, meaning?</p> <p>20 A No money, like.</p> <p>21 MR. HARVEY: You can put that one aside.</p> <p>22 Put it on the stack, rather. I'm handing you</p> <p>23 Exhibit 11 or Zarro Exhibit 11.</p> <p>24 (Exhibit 11 was marked for identification.)</p> <p>25 Q At the top of this, it says, Takeover</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

47 (185 to 188)

185	<p>1 Industries Inc. Balance Sheet as of December 31, 2 2022; correct? 3 A Mm-hmm. 4 Q Yes? 5 A Yes. Sorry. 6 Q And if you look about two thirds of the 7 way down on page 1, there's a row that says, Total 8 Assets; correct? 9 A Correct. 10 Q And it says \$329,480.64; correct? 11 A Correct. 12 Q And then if you go about two thirds of 13 the way down on page 2, or actually a little more 14 than that, there's a column or a row that says, 15 Total liabilities. Do you see that? Almost all 16 the way down on the bottom of page 2. 17 A Bottom of page 2. Total liabilities. 18 Q Yep. Do you see that? 19 A Yes. 3.7. 20 Q I'm seeing 3.9. 21 A That's -- okay. Total, yeah, 3.9. 22 Q Yep. Total liabilities. And then if 23 you go about -- if you go about halfway down on 24 that same page 2 -- we're still in the liabilities 25 column --</p>
186	<p>1 A Mm-hmm. 2 Q -- and there's a reference to 3 James Deppoleto; correct? 4 A Yes. 5 Q And the total amount listed is 2 million 6 16,697; correct? 7 A Yes. 8 Q So as of Takeover Industries' balance 9 sheet, dated December 31, 2022, Takeover is booking 10 a liability to Mr. Deppoleto of over \$2 million; 11 correct? 12 A Correct. 13 Q And that would be consistent with our 14 discussions earlier about not only the 1.5 million 15 being owed but approximately 500,000 more; correct? 16 A Yeah. That's the claim. 17 Q And this is Takeover's own balance 18 sheet, though; correct? 19 A It appears that way. 20 MR. BENNION: Is there a Bates stamp 21 number for this document, Counsel? 22 MR. HARVEY: I don't know. It's 23 something that you guys produced. It's a 24 spreadsheet. So in any event -- strike that. 25 Okay. You can put that one aside. The</p>
187	<p>1 next one I'm going to hand you has already been 2 marked Holley Exhibit 12. So we'll just leave that 3 as Holley Exhibit 12. 4 (Holley Exhibit 12, previously marked, was 5 identified.) 6 BY MR. HARVEY: 7 Q The first Holley Exhibit 12 is Bates 8 labeled DEF484 through 486, and the first question 9 I wanted to ask you about was on DEF486. It's a 10 little confusing because it spans some pages but 11 the email there, if you look at the page before, 12 it's from you, dated January 3 to Brian Calka, C-A- 13 L-K-A. 14 A Mm-hmm. 15 Q Correct? 16 A Yes. 17 Q And on January 3, 2024, you say, Hi, 18 Brian -- unaudited confidential -- here are the 19 2022 numbers for Takeover that are under audit that 20 you asked for. As you can see, it is a big mess. 21 Did I read that right? 22 A Yes. 23 Q And then you say, We are still being 24 challenged by one creditor; correct? 25 A Yes.</p>
188	<p>1 Q Who's that? 2 A James, I believe. Hang on. Yes. I'm 3 referring to James. 4 Q Okay. Now why did you refer to 5 Takeover's financials as a big mess? 6 A I mean, I know I'm not allowed to ask 7 questions here, Mr. Harvey, but you've got to be 8 kidding me. 9 Q Well -- 10 MR. BENNION: You cannot ask questions. 11 It's the deposition process. That may be part of 12 your answer, but go ahead and answer it if you can. 13 I'm going to object as to vague and 14 ambiguous. Go ahead. 15 THE WITNESS: I apologize. I mean -- 16 certainly mean no disrespect. 17 A It -- because it's a big mess. 18 Q Okay. 19 A Liabilities, nothing's affirmed, sued 20 from everybody. I mean, just it's a mess. 21 Q You go on to say, This is the reason we 22 are wanting to give you a new note. 23 What do you mean by Give you a new note? 24 A Give him a convertible note, an LTNC, 25 like we offer James so he could get paid.</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

48 (189 to 192)

189	<p>1 Q And you go on to say, New brand. What</p> <p>2 do you mean by New brand?</p> <p>3 A Well, LOCK'D IN. Like, in other words,</p> <p>4 new note with new life in the company.</p> <p>5 Q And so you're saying Takeover was not</p> <p>6 going to issue this new note; correct?</p> <p>7 A They couldn't. They're a private</p> <p>8 company.</p> <p>9 Q Private companies can't issue new notes?</p> <p>10 A It would be worthless. That would be</p> <p>11 fraud. It would be fraud for me to even suggest</p> <p>12 that, Mr. Harvey.</p> <p>13 Q Could Next Gen beverages issue a note?</p> <p>14 A No. No.</p> <p>15 Q Maybe I'm not understanding. I</p> <p>16 understand your point about Next Gen being a</p> <p>17 private company, so it couldn't issue publicly</p> <p>18 traded shares, but why couldn't it enter into a</p> <p>19 promissory note?</p> <p>20 A Oh, well, when I say note, I'm referring</p> <p>21 to convertible note, not a promissory note. A</p> <p>22 convertible note.</p> <p>23 Q Okay.</p> <p>24 A A securities instrument like I have,</p> <p>25 like my note.</p>	191	<p>1 in our new and separate company.</p> <p>2 Do you see that?</p> <p>3 A Yes.</p> <p>4 Q And are you referring to Next Gen</p> <p>5 Beverages?</p> <p>6 A Yes.</p> <p>7 Q Then you go on to say Sales are almost</p> <p>8 non-existent, but I can make a case for</p> <p>9 partnership; correct?</p> <p>10 A Yes.</p> <p>11 Q What do you mean by that?</p> <p>12 A I was always hopeful that we could do</p> <p>13 something with Next Gen Beverages and LOCK'D IN,</p> <p>14 the brand.</p> <p>15 Q Now, when you say Sales are</p> <p>16 non-existent, are you referring to sales for</p> <p>17 Takeover or sales for Next Gen Beverages?</p> <p>18 A Probably both.</p> <p>19 Q Was Brian interested in the partnership?</p> <p>20 A Yeah. But Brian was -- soon left. This</p> <p>21 was turned over, I think, to their CFO. So our</p> <p>22 conversation stopped, and it kind of got escalated,</p> <p>23 and we no longer talked about partnerships and, you</p> <p>24 know, ambassadorships. It was more strictly on the</p> <p>25 financial, and they chose litigation, and that's</p>
190	<p>1 Q Got you. Okay. Thank you for</p> <p>2 clarifying.</p> <p>3 A No problem.</p> <p>4 Q Did Brian agree to a new convertible</p> <p>5 note?</p> <p>6 A He did not.</p> <p>7 Q Why not?</p> <p>8 A Let me think. This is still an active</p> <p>9 litigation. I think we -- our last conversation</p> <p>10 with them was a settlement talk. Our attorney in</p> <p>11 New York does not believe that they have a valid</p> <p>12 debt to the tune that they're asking. So it's</p> <p>13 currently in litigation.</p> <p>14 Q Okay. Going up to DEF484, the first</p> <p>15 page of that exhibit, you say, Hi, Brian. Yes, we</p> <p>16 can, but it's important to note that Takeover is</p> <p>17 dead. Absolutely.</p> <p>18 Do you see that?</p> <p>19 A Yes.</p> <p>20 Q What did you mean by Takeover is dead?</p> <p>21 Absolutely.</p> <p>22 A It has no -- there's no life to it.</p> <p>23 There's no monetary value. There's no money in it.</p> <p>24 Q You go on to say Anything we can do</p> <p>25 work with you in 2024 and meet arrears must be done</p>	192	<p>1 where we're at right now with that.</p> <p>2 Q As of January 2024, did Takeover owe</p> <p>3 money to the Professional Fighters League?</p> <p>4 A Yes.</p> <p>5 Q How much?</p> <p>6 A They're claiming 1 million and some odd.</p> <p>7 I don't remember. We can go back to the balance</p> <p>8 sheet and look if you want.</p> <p>9 Q And you've said you're in litigation</p> <p>10 over it; correct?</p> <p>11 A Yes.</p> <p>12 MR. HARVEY: Okay. All right. You can</p> <p>13 put that one on the stack. I'm handing you what we</p> <p>14 marked as Zarro Exhibit 12.</p> <p>15 (Exhibit 12 was marked for identification.)</p> <p>16 Q This is labeled Resolution of Board of</p> <p>17 Directors of Takeovers Industry or Takeover</p> <p>18 Industries Inc., and it's dated April -- well, it's</p> <p>19 referring to a meeting that was held on April 17,</p> <p>20 2023; correct?</p> <p>21 A Yes.</p> <p>22 Q Do you recognize this document?</p> <p>23 A I believe so.</p> <p>24 Q Okay. What did -- can you just</p> <p>25 generally describe what's going on here?</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

49 (193 to 196)

<p style="text-align: right;">193</p> <p>1 A I think Toby stepped out and Tom stepped 2 in officially. 3 Q Toby stepped out, and Tom Zarro -- 4 A Yeah. Me. 5 Q -- okay -- stepped in. Did you attend 6 that April 17, 2023, board meeting? 7 A It was virtual. 8 Q Okay. So you attended virtually, 9 though? 10 A Yes. 11 Q And you became a member of Takeover's 12 Board of Directors as of April 17, 2023; correct? 13 A Yes. 14 Q Who actually asked you to join the 15 Takeover Board of Directors? 16 A I think it was collective. 17 Q When were you first asked to join 18 Takeover's Board of Directors? 19 A I'm sure soon before that date. I don't 20 recall the exact date. 21 Q Why did you agree to serve on the 22 Takeover Board of Directors? 23 A It was the only way Takeover had a shot 24 at surviving. It was not going to survive with 25 Toby.</p>	<p style="text-align: right;">195</p> <p>1 Q And these are your responses to the 2 subpoena duces tecum; correct? 3 A If you say so. 4 Q That's what it says on the top. 5 A Okay. The first one I wanted to ask you 6 about is Request No. 1 which is on page 2. 7 A Okay. 8 Q You can read the request and your 9 response. I just wanted to ask you actually about 10 the second paragraph. It says, Responding party 11 also states that his role was to fill a void in 12 leadership at Takeover. 13 Do you see that portion? Last sentence 14 of the second paragraph of your response. 15 A What am I missing? Oh, here. Yep. Got 16 it. Got it. Got it. Yes, I see it. 17 Q What did you mean by fill a void in 18 leadership at Takeover? 19 A Well, it would have left a board seat 20 vacant if it was not filled immediately. 21 Q Because Mr. McBride was stepping down -- 22 A Correct. 23 Q -- regardless? 24 A Correct. 25 Q Anything else you meant by that?</p>
<p style="text-align: right;">194</p> <p>1 Q Why do you say that? 2 A There was just a lot of negativity 3 around Toby. 4 Q Why do you say that? 5 A Because of all the allegations you've 6 made against him today that were made public. 7 Q Anything else? 8 A Not specifically. No. 9 Q Before you accepted this appointment, 10 had -- did you have any experience serving on a 11 company's board of directors? 12 A No. 13 MR. HARVEY: Okay. You can put that one 14 in the pile. 15 THE WITNESS: Thank you. 16 MR. HARVEY: The next one I'm going to 17 hand you will be Zarro Exhibit 17. Did I say -- I 18 think I said the wrong number. 19 THE REPORTER: Yeah. You said Exhibit 20 -- 21 MR. HARVEY: Zarro Exhibit 13. 22 MR. BENNION: Exhibit 13. 23 MR. HARVEY: Sorry about that. That 24 will be Zarro Exhibit 13. 25 (Exhibit 13 was marked for identification.)</p>	<p style="text-align: right;">196</p> <p>1 A Nope. 2 Q Okay. When did he announce his 3 intention to step down regardless of what was going 4 on? 5 A Soon before. 6 Q Was there a particular precipitating 7 event? 8 A I think just the culmination of the 9 mess. 10 Q Then I wanted to ask you about your 11 response to Request No. 9, which is on page 5, at 12 the bottom of page 5. You say Responding party 13 purchased some water from Takeover in an effort to 14 help get rid of some stale inventory. 15 A Mm-hmm. 16 Q Yes? 17 A Yes. 18 Q When you reference water, what product 19 or products are you referring to? 20 A The hydrogen water. 21 Q When was this purchased? 22 A I don't know. I don't recall the exact 23 date. 24 Q Now I thought you told me before that 25 Takeover stopped selling hydrogen water in the</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

50 (197 to 200)

<p style="text-align: right;">197</p> <p>1 middle of 2022. Is that your testimony?</p> <p>2 A Yeah. I -- that's my recollection. I</p> <p>3 don't know that that's a fact, but that's my</p> <p>4 recollection.</p> <p>5 Q So this hydrogen water -- well, when was</p> <p>6 this purchase?</p> <p>7 A I'm going to assume it was early '23.</p> <p>8 So it sounds to me like Takeover needed money. So</p> <p>9 I bought the remaining inventory, put the money in</p> <p>10 for Takeover so they could use it to continue, and</p> <p>11 I took custody of that water.</p> <p>12 Q When was this water made if they stopped</p> <p>13 selling it in 2022?</p> <p>14 A Probably earlier that year or in 2021.</p> <p>15 Q Because I don't know anything about</p> <p>16 hydrogen water. Does it go bad?</p> <p>17 A There's dates on it. I personally don't</p> <p>18 think it goes bad, but the dates require a stop</p> <p>19 sell date.</p> <p>20 Q How much water did you purchase?</p> <p>21 A I think a truckload.</p> <p>22 Q How much money did you pay?</p> <p>23 A If memory serves, \$50,000, somewhere</p> <p>24 around there.</p> <p>25 Q Did you use personal funds to pay for</p>	<p style="text-align: right;">199</p> <p>1 Q How and where did you sell it?</p> <p>2 A I sold it on Shopify. I don't have the</p> <p>3 specifics.</p> <p>4 Q And when you sold it on Shopify, did the</p> <p>5 proceeds from those sales go to you personally?</p> <p>6 A Yeah, the proceeds went to me.</p> <p>7 Q Did you ever advertise it on Next Gen's</p> <p>8 website?</p> <p>9 A No, not Next Gen's website. No. That</p> <p>10 was all Takeover.</p> <p>11 Q Okay. Next Gen or LOCK'D IN. Did you</p> <p>12 advertise it on the LOCK'D IN website?</p> <p>13 A No. I don't think so.</p> <p>14 THE WITNESS: To the stack?</p> <p>15 MR. HARVEY: Yep, to the stack. All</p> <p>16 right. I'll hand you Zarro Exhibit 14.</p> <p>17 (Exhibit 14 was marked for identification.)</p> <p>18 Q Is this -- am I reading this correctly?</p> <p>19 This is your personal bank statement?</p> <p>20 A Yeah.</p> <p>21 Q Okay. And so on December 16, 2022, it</p> <p>22 shows a withdrawal payment made to Takeover for</p> <p>23 20,000; is that right?</p> <p>24 A Yes.</p> <p>25 Q What was that for?</p>
<p style="text-align: right;">198</p> <p>1 that?</p> <p>2 A Yes.</p> <p>3 Q What did you do with the water after you</p> <p>4 -- well, did you take possession of the water?</p> <p>5 A Send me your address, and you'll get a</p> <p>6 case for Christmas. I still have many pallets of</p> <p>7 it. Some was sold. Some was sold, and some was</p> <p>8 taken by me, and it's sitting in a warehouse now,</p> <p>9 and I actually enjoy it.</p> <p>10 Q Was it just one payment that you made,</p> <p>11 or was it several?</p> <p>12 A I think it was two, totaling about 50.</p> <p>13 Q And when did you make the payment?</p> <p>14 Sorry. I just asked you that.</p> <p>15 A No problem. I think it was early on,</p> <p>16 Mr. Harvey, in the engagement here. So I'm going</p> <p>17 to say Januaryish '23.</p> <p>18 Q And how did Takeover use the money that</p> <p>19 you gave?</p> <p>20 A I think probably for fulfillment, small</p> <p>21 salaries, stay alive money, legal, accounting. No</p> <p>22 distributions, I can assure you.</p> <p>23 Q The -- you said you sold some of it;</p> <p>24 correct?</p> <p>25 A Yes.</p>	<p style="text-align: right;">200</p> <p>1 A That was for the -- this is for the --</p> <p>2 these two are for the water purchase.</p> <p>3 Q Okay. So the payment on December 19,</p> <p>4 2022, for 32,000 and change -- that was for water</p> <p>5 too?</p> <p>6 A Yeah. Both of these combined for that</p> <p>7 approximate 50 purchase.</p> <p>8 Q Aside from that 52,000 and change, did</p> <p>9 you make any other payments to Takeover?</p> <p>10 A I did. I did.</p> <p>11 Q When and for what?</p> <p>12 A I don't -- I don't know exactly when,</p> <p>13 but I did the same thing with the energy shots. I</p> <p>14 bought them at fair value to try and keep Takeover</p> <p>15 alive.</p> <p>16 Q When you say fair value, was it the list</p> <p>17 price, or was it half off like the LOCK'D IN</p> <p>18 website was showing?</p> <p>19 A That was half off retail -- what you saw</p> <p>20 on the website. I paid cost for manufacturing for</p> <p>21 the shots.</p> <p>22 Q Did you pay costs for manufacturing for</p> <p>23 the water?</p> <p>24 A I believe so. Or more -- or more.</p> <p>25 Q So what --</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

51 (201 to 204)

201	<p>1 A I think more.</p> <p>2 Q It's the LOCK'D IN website. It looked</p> <p>3 like it was about 50 percent off of the list price.</p> <p>4 A Mm-hmm.</p> <p>5 Q Did you pay -- you paid 50 percent off</p> <p>6 the list price for the energy shots?</p> <p>7 A No. I think I paid -- I bought it in</p> <p>8 two payments. I think one was for actual cost, and</p> <p>9 then the next purchase was for a reduced off cost.</p> <p>10 Q And when you say actual cost, that's</p> <p>11 less than 50 percent; correct?</p> <p>12 A Less than 50 percent of selling price.</p> <p>13 I think, Mr. Harvey, you're confused on cost to</p> <p>14 manufacture and selling price.</p> <p>15 Q That's what I'm trying to clarify.</p> <p>16 A Sure.</p> <p>17 Q The higher number is the selling price</p> <p>18 obviously.</p> <p>19 A Correct.</p> <p>20 Q So when you say you purchase for actual</p> <p>21 cost, approximately what percentage of retail price</p> <p>22 is actual cost?</p> <p>23 A Forty percent, rough.</p> <p>24 Q Okay. So the first energy shots you</p> <p>25 purchased, you got for 40 percent retail price?</p>	203	<p>1 MR. HARVEY: Well, that was two</p> <p>2 payments, it sounds like.</p> <p>3 MR. BENNION: Correct.</p> <p>4 THE WITNESS: I believe there were two</p> <p>5 or somewhere around that dollar figure. I can</p> <p>6 certainly get them for you.</p> <p>7 MR. BENNION: Thank you.</p> <p>8 Q What did you do with those energy shots</p> <p>9 after you purchased them?</p> <p>10 A I still have them.</p> <p>11 Q Did you resell any of them?</p> <p>12 A Trying to.</p> <p>13 Q On what platform?</p> <p>14 A Neither. When you guys sent that cease</p> <p>15 and desist, we stopped selling. I, frankly, just</p> <p>16 don't know what to do with them, but I don't want</p> <p>17 to throw them out.</p> <p>18 Q Where are they stored right now?</p> <p>19 A In Georgia at the facility that we've</p> <p>20 spoken about.</p> <p>21 Q What's the retail value if you were able</p> <p>22 to sell them?</p> <p>23 A Well, I don't think we can get retail</p> <p>24 because of the dating on them, but I would say we</p> <p>25 should be able to get 150-, 200,000. Yeah.</p>
202	<p>1 A Approximate. Yeah.</p> <p>2 Q And the second you got for less than 40</p> <p>3 percent --</p> <p>4 A Yeah.</p> <p>5 Q -- because you said it was reduced cost.</p> <p>6 A Correct. Probably 25, 30.</p> <p>7 Q Who authorized those purchases?</p> <p>8 A Everybody that worked there.</p> <p>9 Q And how much were the energy shot</p> <p>10 purchases for?</p> <p>11 A Total somewhere -- if memory serves,</p> <p>12 125ish. I don't know why 126 is sticking, but low</p> <p>13 100s.</p> <p>14 Q A hundred and twenty-five thousand?</p> <p>15 A Yes.</p> <p>16 Q And approximately when was this?</p> <p>17 A I'm assuming mid-first quarter, maybe</p> <p>18 second quarter 2023. I don't -- I don't recall</p> <p>19 Mr. Harvey. I don't recall.</p> <p>20 MR. HARVEY: And I don't see any -- I</p> <p>21 don't remember seeing any documents that reflects</p> <p>22 those transactions, Counsel. So I'd ask that those</p> <p>23 be produced too.</p> <p>24 MR. BENNION: A hundred and twenty-six</p> <p>25 thousand dollars?</p>	204	<p>1 Q Okay. Oh, I'm sorry. I had maybe one</p> <p>2 or two more questions about Exhibit -- I'm sorry.</p> <p>3 I had another question or two about Exhibit 10.</p> <p>4 This one -- let me see -- is Interrogatory No. 1.</p> <p>5 So it's on page 2.</p> <p>6 Your answer to Interrogatory No. 1 --</p> <p>7 you're talking about getting Mr. Pavlik and</p> <p>8 Mr. McBride to sign various documents. Do you see</p> <p>9 that?</p> <p>10 A Yes.</p> <p>11 Q What specific documents are you</p> <p>12 referring to?</p> <p>13 A Oh, man. Jason was an oppressor when it</p> <p>14 came to documents, and Toby and Joe were both very</p> <p>15 pliable, in my opinion. So I'm starting with Joe's</p> <p>16 shares -- to purchase shares from Joe. What Toby</p> <p>17 alleged was on that 243,000 -- he said that was all</p> <p>18 coerced and pressured.</p> <p>19 Q Let me ask it this way: You don't have</p> <p>20 any personal knowledge of any of that happening;</p> <p>21 correct? Because you weren't there at the time.</p> <p>22 A True. True.</p> <p>23 Q So to the extent you're saying this</p> <p>24 here, everything you're responding to in</p> <p>25 Interrogatory No. 1 is not personal knowledge of</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

52 (205 to 208)

<p style="text-align: right;">205</p> <p>1 yours. It's hearsay; correct?</p> <p>2 MR. BENNION: I'm going to state an</p> <p>3 objection. Calls for a legal conclusion. It may</p> <p>4 be vague and ambiguous.</p> <p>5 THE WITNESS: Should I answer.</p> <p>6 MR. BENNION: The question is before</p> <p>7 you. Yes.</p> <p>8 THE WITNESS: Okay.</p> <p>9 A So the answer to your question is, as it</p> <p>10 relates to the signing and the pressures, correct,</p> <p>11 I was not there, but paragraph one has more to do</p> <p>12 with just that.</p> <p>13 Q Well, I mean, I'll ask it this way:</p> <p>14 You've told me several times today you didn't</p> <p>15 really get involved with the company until at least</p> <p>16 after November 2022; correct?</p> <p>17 A Correct.</p> <p>18 Q And all of this stuff that you're</p> <p>19 talking about in Interrogatory No. 1, the response</p> <p>20 -- these are all things that happened before</p> <p>21 December 2022; correct?</p> <p>22 A Correct. But some things have come to</p> <p>23 light after December 2022; so I can't rule out</p> <p>24 everything in paragraph one.</p> <p>25 Q Well, when you say come to light, you</p>	<p style="text-align: right;">206</p> <p>1 weren't, for example, in the room or on a phone</p> <p>2 call with Mr. McBride or Mr. Pavlik or Mr. Tucker</p> <p>3 when any of this threatening was allegedly</p> <p>4 occurring; correct?</p> <p>5 A Correct. When -- okay. Correct. Yeah.</p> <p>6 Q And you weren't copied on any emails,</p> <p>7 for example, at the time when any of this was</p> <p>8 occurring?</p> <p>9 A Correct. Correct.</p> <p>10 Q So in terms of personal knowledge,</p> <p>11 things that you witnessed with your own two eyes,</p> <p>12 heard with your own two ears, you don't have any</p> <p>13 personal knowledge about anything you're referring</p> <p>14 to in Interrogatory No. 1; correct?</p> <p>15 A I have seen texts documenting the</p> <p>16 pressure and the false claims to get things signed</p> <p>17 from Mr. Tucker. I have seen screenshots and</p> <p>18 texts.</p> <p>19 MR. HARVEY: Okay. And we haven't been</p> <p>20 produced or provided with any texts even though we</p> <p>21 asked for them.</p> <p>22 THE WITNESS: From me?</p> <p>23 MR. HARVEY: From any of the</p> <p>24 Defendants.</p> <p>25 THE WITNESS: It may not be -- I mean,</p>
<p style="text-align: right;">207</p> <p>1 Mr. Harvey, we're going to get you whatever you ask</p> <p>2 for, obviously.</p> <p>3 MR. HARVEY: Okay.</p> <p>4 THE WITNESS: So if you -- if there's --</p> <p>5 if you're asking in general to document bad faith</p> <p>6 and pressure and these campaigns, we can get you</p> <p>7 those. Not me. Not me but the other guys.</p> <p>8 MR. HARVEY: Right. Yeah. So I would</p> <p>9 request those.</p> <p>10 THE WITNESS: Okay. Sure.</p> <p>11 BY MR. HARVEY:</p> <p>12 Q But even those you've seen copies of</p> <p>13 after the fact, you don't have any contemporaneous</p> <p>14 personal knowledge that supports anything you're</p> <p>15 saying in Interrogatory No. 1; correct?</p> <p>16 MR. BENNION: Objection. May call for a</p> <p>17 legal conclusion.</p> <p>18 Go ahead.</p> <p>19 A I -- define contemporary or --</p> <p>20 Q As these things were allegedly going on,</p> <p>21 you weren't involved with the company. That's what</p> <p>22 you've been telling me all day. You weren't.</p> <p>23 A Correct. I was not involved with the</p> <p>24 company, but when I got involved, I saw evidence</p> <p>25 that points to this stuff.</p>	<p style="text-align: right;">208</p> <p>1 Q Sure. But this is all looking</p> <p>2 backwards. It's not in the moment. You weren't</p> <p>3 there. You didn't hear anything. You didn't see</p> <p>4 anything as it was occurring; correct?</p> <p>5 A Correct. In the moment, I did not.</p> <p>6 Q Okay.</p> <p>7 A Correct. Yes, sir.</p> <p>8 Q So in terms of personal knowledge, you</p> <p>9 -- the only personal knowledge you have is based on</p> <p>10 your review of after the fact or your after-the-</p> <p>11 fact review of texts or emails; correct?</p> <p>12 A And any events that took place after the</p> <p>13 fact relating to this. Yes.</p> <p>14 Q Okay. So that's a little different than</p> <p>15 what you've been saying. What events were you just</p> <p>16 referring to?</p> <p>17 A Like, for example, the 5-hour Energy.</p> <p>18 5-hour Energy just came out with our energy shot --</p> <p>19 our energy shot. The Takeover shot that</p> <p>20 Mr. Deppoleto's money and my money went to pay for</p> <p>21 was just produced and put on a shelf by 5-hour</p> <p>22 Energy. That connects Mr. Deppoleto and Mr. Tucker</p> <p>23 to 5-hour Energy. I've seen the emails. Now the</p> <p>24 product is on the shelf -- selling our product.</p> <p>25 Q I don't think I'm tracking you there.</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

53 (209 to 212)

<p style="text-align: right;">209</p> <p>1 When you say your product, the same --</p> <p>2 A Takeover's product.</p> <p>3 Q The same set of ingredients?</p> <p>4 A I believe so. Darn close if not -- if</p> <p>5 not the same.</p> <p>6 Q And your testimony is that Mr. Tucker</p> <p>7 and Mr. Deppoleto stole the formula?</p> <p>8 A They -- stole is a big word, and I don't</p> <p>9 like to use that as it relates to Mr. Deppoleto.</p> <p>10 Okay? But Gamer Shots -- Takeover's name is now</p> <p>11 stamped on a 5-hour Energy drink that is on a shelf</p> <p>12 for sale now. We have emails and correspondence</p> <p>13 between 5-hour Energy Company and Takeover</p> <p>14 discussing the purchase of that brand from us.</p> <p>15 Q When?</p> <p>16 A When were these conversations?</p> <p>17 Q Yes.</p> <p>18 A '20 -- late '22.</p> <p>19 Q So did 5-hour Energy purchase the</p> <p>20 Takeover?</p> <p>21 A No. Because Gamer Shots was not owned</p> <p>22 by Takeover which speaks to the bad faith</p> <p>23 management that I identify. The trademark, if you</p> <p>24 will, the Gamer Shots website was all owned by</p> <p>25 Jason Tucker or James Deppoleto or, better yet,</p>	<p style="text-align: right;">211</p> <p>1 MR. BENNION: It's a generic.</p> <p>2 A Because it's a generic. Yeah, generic.</p> <p>3 Q Okay.</p> <p>4 A The trademark attorney said it could not</p> <p>5 be trademarked.</p> <p>6 Q Okay. So how do you know that it's the</p> <p>7 same gamer shot that Takeover was making?</p> <p>8 A Well, it's the same name. Well, it's</p> <p>9 the same concept -- a shot for gamers, meaning</p> <p>10 video gamers, which was its sector that everybody</p> <p>11 was going after, and there was communication --</p> <p>12 Q But if it's a generic name, that's like</p> <p>13 tissue.</p> <p>14 A There may not be a legal case here,</p> <p>15 Mr. Harvey, against them, but it certainly points</p> <p>16 to the bad faith management that I recite. And</p> <p>17 that's why I can't say throw out Interrogatory No.</p> <p>18 1.</p> <p>19 Q And how do you know that Mr. Tucker</p> <p>20 and/or Mr. Deppoleto are involved with 5-hour</p> <p>21 Energy?</p> <p>22 A Because there was emails that came from</p> <p>23 5-hour Energy with Mr. Deppoleto's name on it.</p> <p>24 Q When?</p> <p>25 A I don't have the exact dates.</p>
<p style="text-align: right;">210</p> <p>1 James -- Jason Tucker with James Deppoleto's</p> <p>2 knowledge and Jason Tucker's wife. So when we went</p> <p>3 to grab that and take control of the website and</p> <p>4 continue sales, we couldn't. And that's what this</p> <p>5 points to. And now there's evidence. They just</p> <p>6 came out with this energy shot a couple of months</p> <p>7 ago. It's insane. It basically proves everything</p> <p>8 that these guys were saying. It has now been</p> <p>9 proven on a store shelf with 5-hour Energy.</p> <p>10 Q I thought you told me that the Takeover</p> <p>11 name was so sullied in the marketplace that you</p> <p>12 couldn't possibly go out and revive it.</p> <p>13 A Takeover was. Gamer Shots was not.</p> <p>14 Takeover was.</p> <p>15 Q So then now I'm confused. I thought you</p> <p>16 told me the 5-hour Energy drink says Takeover on</p> <p>17 it?</p> <p>18 A No. I says Gamer Shots. But you're</p> <p>19 free to pull it up on the website if anybody's got</p> <p>20 Google.</p> <p>21 Q Was Gamer Shots a trademark name of</p> <p>22 Takeover's?</p> <p>23 A No. It could not be trademarked, but it</p> <p>24 was the name that we put on the product. It was --</p> <p>25 Q Why couldn't it be trademarked?</p>	<p style="text-align: right;">212</p> <p>1 Q How did you get them?</p> <p>2 A They were sent to me.</p> <p>3 Q By?</p> <p>4 A Numerous people in the company.</p> <p>5 Q What company?</p> <p>6 A Takeover. Takeover. At the time,</p> <p>7 Takeover. Takeover emails.</p> <p>8 Q At what time?</p> <p>9 A Early 2023, best recollection.</p> <p>10 Q So was anyone from 5-hour Energy sending</p> <p>11 you these emails, or was it --</p> <p>12 A Not me directly.</p> <p>13 Q Okay. To the extent you saw them, you</p> <p>14 received them from individuals at Takeover?</p> <p>15 A Correct.</p> <p>16 Q Which individuals?</p> <p>17 A Probably Mike. I don't recall exactly.</p> <p>18 Probably Mike Holley, but I don't recall exactly.</p> <p>19 MR. HARVEY: And those are another thing</p> <p>20 that we have not seen. So I'll request those too.</p> <p>21 THE WITNESS: They -- yeah. I think</p> <p>22 that's because we haven't made that an issue yet.</p> <p>23 MR. HARVEY: Well, it seems to go to</p> <p>24 your defense which is something we certainly asked</p> <p>25 for.</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

54 (213 to 216)

<p style="text-align: right;">213</p> <p>1 MR. BENNION: And just -- as we</p> <p>2 discussed before the deposition, we have a</p> <p>3 conference on this tomorrow. I think that was your</p> <p>4 request. I was following up on your letter from</p> <p>5 yesterday. Anyway, I'm not here to testify, but it</p> <p>6 seems that it's noteworthy.</p> <p>7 MR. HARVEY: Well, that one, I'm</p> <p>8 assuming, you're not disputing that we're entitled</p> <p>9 to them?</p> <p>10 MR. BENNION: I haven't seen them, but</p> <p>11 my belief would be that we're not going to dispute</p> <p>12 that.</p> <p>13 MR. HARVEY: Okay.</p> <p>14 BY MR. HARVEY:</p> <p>15 Q All right. Other than the 5-hour Energy</p> <p>16 situation, I'll call it, you were -- what got us</p> <p>17 down that path was you were talking about</p> <p>18 after-the-fact actions that you believe supported</p> <p>19 your response to Interrogatory No. 1.</p> <p>20 A Excellent. Yep.</p> <p>21 Q Are there any other after-the-fact</p> <p>22 actions of which you have personal knowledge that</p> <p>23 substantiates Interrogatory No. 1, or is that the</p> <p>24 only instance?</p> <p>25 A There's more.</p>	<p style="text-align: right;">215</p> <p>1 can lie or people can lie in press releases?</p> <p>2 A The people that put -- yeah, but the</p> <p>3 people that put out press releases are Jason Tucker</p> <p>4 and James Deppoleto.</p> <p>5 Q Okay. Well, we've looked at corporate</p> <p>6 resolutions today, and you've been through the</p> <p>7 discovery. Have you seen a corporate resolution or</p> <p>8 a board member meeting that shows Mr. Deppoleto</p> <p>9 was, in fact, on the board of Takeover?</p> <p>10 A Not that I can specifically point to</p> <p>11 personally.</p> <p>12 Q Okay. And so just because something is</p> <p>13 in a press release doesn't mean that he was</p> <p>14 actually on the board; correct?</p> <p>15 A Yeah. I don't know.</p> <p>16 Q You're the CEO of the company. Have you</p> <p>17 ever seen a company document that says -- an</p> <p>18 internal company document that formally says he's</p> <p>19 on the board of directors?</p> <p>20 A Well, again, we'd have to define which</p> <p>21 documents would speak to the truth, and I think</p> <p>22 there's an argument and a case to be made that</p> <p>23 Mr. Deppoleto was on the board. But if you're</p> <p>24 saying, Tom, show me the board resolution, I can't</p> <p>25 do that today.</p>
<p style="text-align: right;">214</p> <p>1 Q What else?</p> <p>2 A Well, things like the Gamer Shots</p> <p>3 website was not in the company's name. The Amazon</p> <p>4 account selling Gamer Shots was not in the</p> <p>5 company's name. The activities to get the company</p> <p>6 current and trading were not done. The activities</p> <p>7 to get the company audited were not done. The</p> <p>8 activities necessary to get the company spun out</p> <p>9 were not done.</p> <p>10 Q And these are all things that you</p> <p>11 believe Mr. Tucker should have been doing; correct?</p> <p>12 A And his directors, one of which was</p> <p>13 Mr. Deppoleto.</p> <p>14 Q And directors -- what do you mean by</p> <p>15 that?</p> <p>16 A Mr. Deppoleto was a director of</p> <p>17 Takeover.</p> <p>18 Q On the board of directors?</p> <p>19 A I believe so. That was publicly</p> <p>20 announced.</p> <p>21 Q Is there a corporate document that says</p> <p>22 that?</p> <p>23 A I don't know, but I can -- there's a</p> <p>24 press release that says it.</p> <p>25 Q Okay. Well, we'd agree that the press</p>	<p style="text-align: right;">216</p> <p>1 Q Other than the press release, are you</p> <p>2 able to point to any written document that says</p> <p>3 Mr. Deppoleto is on the board or is going to be</p> <p>4 appointed to the board?</p> <p>5 A I cannot personally, no, because I was</p> <p>6 not there at the time.</p> <p>7 Q But you -- you're the CEO and you still</p> <p>8 have access --</p> <p>9 A I know. But I --</p> <p>10 Q -- to all the company's books and</p> <p>11 records; correct?</p> <p>12 A I can -- I can request them. I have not</p> <p>13 specifically requested that.</p> <p>14 Q And as you're sitting here today, you've</p> <p>15 never seen anything other than the press release;</p> <p>16 correct?</p> <p>17 A Incorrect.</p> <p>18 Q What have you seen?</p> <p>19 A I've seen -- there's -- I think there's</p> <p>20 multiple social media posts that point to that.</p> <p>21 Q By whom?</p> <p>22 A From the company.</p> <p>23 Q Okay. Social media posts. Do you</p> <p>24 believe all social media posts?</p> <p>25 A When I put a social media post out with</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

55 (217 to 220)

<p style="text-align: right;">217</p> <p>1 the company, I damn well mean it.</p> <p>2 Q You do personally, but do you believe</p> <p>3 every social media post you read?</p> <p>4 A No. No, I don't. No, I don't.</p> <p>5 Q Okay.</p> <p>6 A I mean, I don't want to -- look. I'm</p> <p>7 not here to point fingers. I'm just -- I can't</p> <p>8 throw out Interrogatory No. 1 as not relevant</p> <p>9 because you're asking me to do that, and I can't.</p> <p>10 There's too much here. I can tell you that</p> <p>11 paragraph one that speaks to individual pressure</p> <p>12 campaigns I've only seen after the fact. I wasn't</p> <p>13 there in real time, but the other stuff has all</p> <p>14 come up, and it seems to be validated by the post</p> <p>15 events that have taken place.</p> <p>16 Q And that's what I was asking about.</p> <p>17 What post events other than the 5-hour Energy?</p> <p>18 A All those -- like, the websites, the</p> <p>19 trademarks, the Shopify, the social media, the</p> <p>20 Kerby Fortners, the Melissa Tucker, you know,</p> <p>21 owning the Amazon account and having all those</p> <p>22 passwords, locking Takeover out of all of it -- all</p> <p>23 of it. It all speaks to bad-faith management.</p> <p>24 Everything, Mr. Harvey, that I've done with Next</p> <p>25 Gen is wholly owned and controlled by Labor Smart,</p>	<p style="text-align: right;">219</p> <p>1 ambiguous. May call for speculation.</p> <p>2 Go ahead.</p> <p>3 A The notes that Mr. Deppoleto drafted and</p> <p>4 the signatures from Jason Tucker all relied on</p> <p>5 Jason Tucker incorporating Mr. Deppoleto in those</p> <p>6 decisions. So if you, Mr. Harvey, are now saying</p> <p>7 that Mr. Deppoleto was not involved, then really</p> <p>8 Jason Tucker ought to be sitting here, not me.</p> <p>9 Q No. I'm asking you questions. And my</p> <p>10 question was -- you keep pointing to all these</p> <p>11 things, like the websites and whatnot, and you're</p> <p>12 alleging I'm not saying I even agree with you</p> <p>13 you're alleging that Mr. Tucker did something</p> <p>14 untoward --</p> <p>15 A On what?</p> <p>16 Q Untoward.</p> <p>17 MR. BENNION: Untoward. Untoward.</p> <p>18 MR. HARVEY: Wrong --</p> <p>19 THE WITNESS: Help, please. Okay.</p> <p>20 Thank you.</p> <p>21 Q -- with respect to those. And my</p> <p>22 question is what evidence do you have that</p> <p>23 Mr. Deppoleto controlled Mr. Tucker? Assuming</p> <p>24 you're correct that Mr. Tucker did something wrong,</p> <p>25 what evidence do you have that Mr. Deppoleto</p>
<p style="text-align: right;">218</p> <p>1 the parent company, so that people like</p> <p>2 Mr. Deppoleto and shareholders are all protected.</p> <p>3 There'll never be a case, if Tom gets hit by a bus</p> <p>4 or gets fired, that the company can't go on and</p> <p>5 succeed. That was not the case here, and that's</p> <p>6 what Interrogatory No. 1 is all about. And that is</p> <p>7 our defense, and it will be our case if we keep</p> <p>8 going.</p> <p>9 Q But, again, these are all things you're</p> <p>10 blaming Mr. Tucker for.</p> <p>11 A And Mr. Deppoleto.</p> <p>12 Q And that's why I'm asking you what</p> <p>13 evidence do you have that --</p> <p>14 A It's --</p> <p>15 Q -- Mr. Deppoleto --</p> <p>16 A I think we should make a list.</p> <p>17 Q I didn't finish the question.</p> <p>18 MR. BENNION: Let him finish the</p> <p>19 question.</p> <p>20 THE WITNESS: Oh. I'm sorry. Sorry,</p> <p>21 Mr. Harvey.</p> <p>22 Q What evidence do you have that</p> <p>23 Mr. Deppoleto had any control over Mr. Tucker when</p> <p>24 he was doing these things that you're alleging?</p> <p>25 MR. BENNION: Objection. Vague and</p>	<p style="text-align: right;">220</p> <p>1 controlled Mr. Tucker?</p> <p>2 A Well, we -- and, again, please forgive</p> <p>3 me. We've asked for a lot of the documentation</p> <p>4 from Mr. Deppoleto. I don't know that we've gotten</p> <p>5 it all. He has not gone through his deposition</p> <p>6 yet. So at that time, all these questions will be</p> <p>7 asked of him.</p> <p>8 Q As you sit here today, you have no</p> <p>9 evidence that Mr. Deppoleto controlled Mr. Tucker;</p> <p>10 true?</p> <p>11 MR. BENNION: Objection. Misstates his</p> <p>12 prior testimony. May call for legal conclusion.</p> <p>13 Go ahead.</p> <p>14 A I can't -- I don't have a document that</p> <p>15 points to control because we have not gone through</p> <p>16 the discovery process.</p> <p>17 Q Well, we actually have gone through the</p> <p>18 discovery process with the documents. So I'm</p> <p>19 saying you've reviewed those and I've asked you</p> <p>20 what written documents you have, and you said</p> <p>21 you've seen a press release; correct?</p> <p>22 A Well, I've -- and -- yeah. And I think</p> <p>23 there's a couple more. I would have to focus on</p> <p>24 that and try and bring that to your attention. I</p> <p>25 can do that in a follow-up if you prefer.</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

56 (221 to 224)

221	<p>1 Q Well, I don't get to ask you questions</p> <p>2 then. So I'm asking you today. So you've seen a</p> <p>3 press release and you've seen social media posts;</p> <p>4 correct?</p> <p>5 A Yes.</p> <p>6 Q As you sit here --</p> <p>7 A About James being director of Takeover.</p> <p>8 Yes.</p> <p>9 Q As you sit here today, setting those two</p> <p>10 aside, you have no evidence of Mr. Deppoleto</p> <p>11 controlling Mr. Tucker; correct?</p> <p>12 MR. BENNION: Objection. Calls for a</p> <p>13 legal conclusion.</p> <p>14 Go ahead.</p> <p>15 A Other than verbal testimony from many</p> <p>16 people.</p> <p>17 Q No personal knowledge? You have no</p> <p>18 personal knowledge; correct?</p> <p>19 A No, sir.</p> <p>20 Q We might have had a double negative.</p> <p>21 Maybe that was my fault. Do you have any personal</p> <p>22 knowledge of Mr. Deppoleto controlling Mr. Tucker?</p> <p>23 A I don't have any documents, but, I mean</p> <p>24 -- but it's clear as day who Mr. Deppoleto was</p> <p>25 aligned with. Yes. He went to court with him. He</p>	223	<p>1 A Only verbal testimony and --</p> <p>2 Q From others, though. I'm asking you --</p> <p>3 A Yeah.</p> <p>4 Q -- if you have personal knowledge.</p> <p>5 A Yeah, personal. The only personal</p> <p>6 knowledge I have is conversations with Mr. Tucker</p> <p>7 at the time, saying everything that him and James</p> <p>8 were doing -- they were aligned. He told me that,</p> <p>9 as the investor, when I was saying, When am I going</p> <p>10 to get paid? Then I have the verbal testimony from</p> <p>11 all the employees. And --</p> <p>12 Q I'm asking for personal knowledge.</p> <p>13 Remember?</p> <p>14 A Yeah. I don't have any.</p> <p>15 Q And Mr. Tucker saying he's aligned with</p> <p>16 Mr. Deppoleto doesn't sound like he was controlled</p> <p>17 by Mr. Deppoleto. Wouldn't you agree?</p> <p>18 MR. BENNION: Vague and ambiguous.</p> <p>19 A Again, Mr. Harvey, the question</p> <p>20 specifically?</p> <p>21 Q You said, Mr. Tucker told me that he and</p> <p>22 Mr. Deppoleto were aligned. That was the word you</p> <p>23 used.</p> <p>24 A Correct. And everything that Mr. Tucker</p> <p>25 told me would happen, based on the events and</p>
222	<p>1 stood on the same side with Mr. Tucker. They were</p> <p>2 locked in arms.</p> <p>3 Q Well, you were asking for the same thing</p> <p>4 as of that hearing, you told me, weren't you?</p> <p>5 A Yes. Because I was informed by</p> <p>6 Jason Tucker, and that was before I had done any</p> <p>7 investigation after the fact.</p> <p>8 Q Well, does that mean you were</p> <p>9 controlling Mr. Tucker? You were asking for the</p> <p>10 same thing at that same hearing?</p> <p>11 A No. No. But I -- but Mr. Tucker was</p> <p>12 informing me as an outsider and an investor. I was</p> <p>13 not labeled as a director. I was not calling the</p> <p>14 shots. I wasn't signing contracts. I wasn't, to</p> <p>15 your evidence, making payments directly to vendors</p> <p>16 on behalf of the company. I wasn't doing any of</p> <p>17 that. We were in very different positions.</p> <p>18 Q But you'd agree that merely siding with</p> <p>19 Mr. Tucker, for purposes of that hearing, doesn't</p> <p>20 mean that you were controlling Mr. Tucker; true?</p> <p>21 A Merely siding. That's a true statement.</p> <p>22 Yes, sir.</p> <p>23 Q Okay. So aside from the press release</p> <p>24 and the social media posts, what personal knowledge</p> <p>25 do you have of Mr. --</p>	224	<p>1 Mr. Deppoleto's actions after, absolutely painted</p> <p>2 the very direct line. Everything Jason said</p> <p>3 Deppoleto did.</p> <p>4 Q Okay. But aligned is different than</p> <p>5 controlled; correct?</p> <p>6 A I think controlled is a very strong</p> <p>7 word. I don't think anybody is controlled, per se.</p> <p>8 Q That's what I'm getting at.</p> <p>9 A Yeah.</p> <p>10 Q You don't have any personal knowledge or</p> <p>11 evidence of Mr. Deppoleto controlling Mr. Tucker;</p> <p>12 correct?</p> <p>13 MR. BENNION: Objection. Calls for a</p> <p>14 legal conclusion.</p> <p>15 A I don't think I have any personal</p> <p>16 knowledge that I can present to a court.</p> <p>17 Q All right.</p> <p>18 MR. BENNION: Can we go off the record</p> <p>19 just for a second?</p> <p>20 MR. HARVEY: We can, but I'm just about</p> <p>21 done. So I'd rather not.</p> <p>22 MR. BENNION: Good. Okay. My stomach's</p> <p>23 growling. I apologize.</p> <p>24 MR. HARVEY: Oh, yeah. Let's --</p> <p>25 MR. BENNION: But if you've only got</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

57 (225 to 228)

225	<p>1 five minutes or so, let's get done.</p> <p>2 MR. HARVEY: Yeah, let's -- I'd</p> <p>3 recommend we do that.</p> <p>4 MR. BENNION: Okay.</p> <p>5 BY MR. HARVEY:</p> <p>6 Q Still paragraph or Response No. 1, that</p> <p>7 paragraph. You say, It is also my understanding</p> <p>8 that Jason would use their signatures to sign some</p> <p>9 documents without their consent, approval, or</p> <p>10 knowledge.</p> <p>11 I think you've already asked it. I've</p> <p>12 just got to button it up. You don't have any</p> <p>13 personal knowledge --</p> <p>14 A No.</p> <p>15 Q -- of that happening; correct?</p> <p>16 A I do not.</p> <p>17 Q Okay. You mentioned the company</p> <p>18 Illumination Holdings. Can you briefly tell me</p> <p>19 what that is?</p> <p>20 A Illumination Holdings is a Canadian</p> <p>21 company. They tried to go -- they were a public</p> <p>22 company. They were delisted as well. They had</p> <p>23 shareholders that needed to be rescued. The CEO</p> <p>24 and CSO of that company were introduced to me, and</p> <p>25 it presented an opportunity for us to acquire them</p>	227	<p>1 intercompany transfers. Yes.</p> <p>2 Q What do you mean by intercompany</p> <p>3 transfers?</p> <p>4 A Well, transfer is the wrong word.</p> <p>5 Intercompany sales. For example, Illuminations</p> <p>6 owns the Legacy Distribution Center. It delivers</p> <p>7 to thousands of stores in its market. So now the</p> <p>8 LOCK'D IN brand is being sold in that market</p> <p>9 through Legacy. Illuminations Legacy is purchasing</p> <p>10 product from Next Gen.</p> <p>11 Q Is it paying retail?</p> <p>12 A Well, the wholesale distribution, but,</p> <p>13 yes, they're paying fair market value. Mm-hmm.</p> <p>14 Q How long has this been going on?</p> <p>15 A It's embryonic. A month.</p> <p>16 Q And there's a distinction between</p> <p>17 Illumination Holdings Inc. and Illumination Brands</p> <p>18 Inc.; correct?</p> <p>19 A There is. I don't have all the</p> <p>20 technical knowledge there.</p> <p>21 Q What's your understanding of what</p> <p>22 Illumination Brands Inc. does?</p> <p>23 A I think brands is almost like an IP</p> <p>24 company; whereas, the Holdings is the distribution</p> <p>25 center, the footprint.</p>
226	<p>1 to advance our brands and build Labor Smart. And</p> <p>2 it's an additional subsidiary under Labor Smart.</p> <p>3 Q What is -- what is its business, though?</p> <p>4 A Primarily a distribution center for</p> <p>5 beverages. It's a facility in Colorado -- 80,000</p> <p>6 square feet, trucks, employees. It takes us from a</p> <p>7 direct-to-consumer business to an actual footprint</p> <p>8 and a delivery -- a beverage delivery and beverage</p> <p>9 incubator if you will.</p> <p>10 Q How is it affiliated with Takeover?</p> <p>11 A Only it's a sister subsidiary.</p> <p>12 Everything we do that benefits the owners of</p> <p>13 Illuminations now or Next Gen benefits the owners</p> <p>14 of Takeover.</p> <p>15 Q A sister subsidiary through Labor Smart?</p> <p>16 A Yes, sir.</p> <p>17 Q How is it affiliated with Next Gen?</p> <p>18 A The same. Sister subsidiary.</p> <p>19 Q So if Next Gen wanted to use</p> <p>20 Illumination Holdings, would it have to pay</p> <p>21 Illumination Holdings money?</p> <p>22 A Yes.</p> <p>23 Q Has it paid Illumination Holdings --</p> <p>24 Next Gen?</p> <p>25 A Its incurred bills. There have been</p>	228	<p>1 Q Illumination Brands -- how is it</p> <p>2 affiliated with Takeover?</p> <p>3 A It's not.</p> <p>4 Q How is it affiliated with Next Gen?</p> <p>5 A It's not.</p> <p>6 Q And did Labor Smart acquire Illumination</p> <p>7 Brands Inc. as well or just Illumination Holdings?</p> <p>8 A Holdings.</p> <p>9 Q Is Brad Wyatt the CEO of Illumination?</p> <p>10 A He is.</p> <p>11 Q Does he have any affiliation with</p> <p>12 Takeover?</p> <p>13 A He's the co-CEO of Labor Smart which now</p> <p>14 means he's the -- you know, sits on top of that</p> <p>15 corporate structure.</p> <p>16 Q Does he have any affiliation -- direct</p> <p>17 affiliation with Takeover?</p> <p>18 A Not really.</p> <p>19 Q When you say not really, what do you</p> <p>20 mean?</p> <p>21 A Like, I mean, when you say direct</p> <p>22 affiliation, what do you mean, like?</p> <p>23 Q You're the CEO. That would be a direct</p> <p>24 affiliation. Does he have any title with Takeover?</p> <p>25 A No, he does not. No, he does not.</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

58 (229 to 232)

229	<p>1 Q Does he have any affiliation with Next 2 Gen, direct affiliation? 3 A No. 4 Q Do you know an individual named Mike -- 5 and I don't know if I'm spelling it correctly or 6 pronouncing it -- Ghini, G-H-I-N-I? 7 A No. No. 8 Q Any brand ambassadors for Next Gen with 9 a name similar to that? 10 A No. 11 Q What's the -- is there a company called 12 Next Gen Holdings? 13 A There is. 14 Q What's the distinction between Next Gen 15 Beverages LLC and Next Gen Holdings? 16 A Next Gen Holdings is the company that 17 houses all the intellectual property. Remember, we 18 talked about the trademarks and everything being 19 wholly owned? So Next Gen Holdings is wholly owned 20 by Labor Smart, and it houses our trademarks so 21 that they can never be stolen again. 22 Q What's the -- or what's the purpose 23 behind separating those two out? 24 A Just protection of the trademarks and 25 any intellectual property.</p>	231	<p>1 A I believe about the same timeline as 2 Next Gen Beverages, so May-June 2023. As soon as 3 the trademark was approved for LOCK'D IN. 4 Q Other than the subsidiaries that we've 5 already discussed today -- and we can go through 6 them one by one if you want -- does Labor Smart 7 have any other subsidiaries other than the ones 8 we've already talked about? 9 A No. 10 Q Out of the other Labor Smart 11 subsidiaries, have any of them received any 12 payments or any other form of compensation from 13 Takeover? 14 A No. 15 Q Have any of them received assets from 16 Takeover? 17 A No. 18 Q Have any of them received payments or 19 any other form of compensation from Next Gen? 20 A Illuminations, through its subsidiary, 21 Legacy, is getting payments for fulfillment of 22 direct to consumer LOCK'D IN sales. 23 Q Anything else? 24 A No, not that I can recall. 25 Q Have any of them received assets from</p>
230	<p>1 Q Does Next Gen Beverages compensate Next 2 Gen Holdings for use of the trademarks? 3 A There's no formal agreement but not a -- 4 Q Who's -- 5 A -- but not a bad idea. 6 Q Who's on the board of Next Gen Holdings? 7 A There's no board. It's another, like, 8 member only, and that would be me and Mike. It's 9 wholly owned by Labor Smart. 10 MR. HARVEY: You know what? I don't 11 want to be the person that says five minutes and 12 have it not be five minutes. So why don't we go 13 ahead -- we can go off the record. 14 THE VIDEOGRAPHER: We are going off the 15 record. The time is 12:58 p.m. 16 (Off the record.) 17 (On the record.) 18 THE VIDEOGRAPHER: We are going back on 19 the record. The time is 1:38 p.m. 20 BY MR. HARVEY: 21 Q Mr. Zarro, before we went off, we were 22 talking about Next Gen Holdings. 23 A Yes, sir. 24 Q How long has Next Gen Holdings been in 25 existence?</p>	232	<p>1 Next Gen? 2 A No. I mean, inventory for sale, but 3 that's a purchased asset. Right? Yeah. 4 Q To your knowledge, who has Takeover 5 discussed James's payments with? 6 A Well, certainly legal and accounting, 7 all officers, and board members. 8 Q Any third parties? Other companies, for 9 example? 10 A No. I think just the PFL in that one 11 document that we talked about. 12 Q Aside from that email exchange, were 13 there phone calls or anything? 14 A No. I think there might have been a 15 phone call about, like, we're working with James, 16 to -- like, there were two big creditors -- James 17 and the PFL, and I was trying to share the same 18 solution to both -- the convertible note for the 19 debt they were owed in the public company to get 20 them both paid. 21 Q Anyone else? 22 A Not to my recollection. 23 Q Was the discussion you were just talking 24 about with PFL -- was it around the time of the 25 email we were looking at earlier?</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

59 (233 to 236)

<p style="text-align: right;">233</p> <p>1 A Yeah. Yes. Correct.</p> <p>2 Q Has there been any subsequent</p> <p>3 discussions with PFL?</p> <p>4 A We had maybe --</p> <p>5 Q About James's debt?</p> <p>6 A Oh, no, no, no. No.</p> <p>7 Q Who did the company coordinate with over</p> <p>8 the establishment of Next Gen which was after our</p> <p>9 lawsuit was filed in late December 2022?</p> <p>10 MR. BENNION: Objection. Vague and</p> <p>11 ambiguous.</p> <p>12 Go ahead.</p> <p>13 A Your question, as I understand it, is</p> <p>14 who discussed the formation of Next Gen. That was</p> <p>15 the board at the time. I think --</p> <p>16 Q Of Labor Smart?</p> <p>17 A Of Labor Smart. So that was me, Mike.</p> <p>18 Primarily Mike and I, Joe Pavlik.</p> <p>19 Q Anyone else?</p> <p>20 A Not that I can recall.</p> <p>21 Q And walk me through those discussions.</p> <p>22 What specifically was said?</p> <p>23 A We need to have a entity that is fully</p> <p>24 capable of spinning out. This was also the time</p> <p>25 that we did not believe that LTNC Labor Smart could</p>	<p style="text-align: right;">235</p> <p>1 multiple lawsuits, multiple creditors, terrible</p> <p>2 press, and no assets to speak of.</p> <p>3 Q That initial discussion you were just</p> <p>4 describing -- was that over the phone, in person,</p> <p>5 via Zoom?</p> <p>6 A Most of it was all through -- over the</p> <p>7 phone.</p> <p>8 Q Was this at a formal board meeting, or</p> <p>9 was this some --</p> <p>10 A Informal. Like, doing everything we</p> <p>11 could to save Takeover while protecting the</p> <p>12 shareholders with a new entity.</p> <p>13 Q Were there emails before this meeting or</p> <p>14 texts?</p> <p>15 MR. BENNION: Objection. Vague and</p> <p>16 ambiguous.</p> <p>17 Go ahead.</p> <p>18 A There may have been. We did -- we've</p> <p>19 done a lot on the phone, but there may have been.</p> <p>20 Q You think it would have been emails or</p> <p>21 texts or both?</p> <p>22 A Probably emails.</p> <p>23 Q What email addresses would you guys have</p> <p>24 been using at that time?</p> <p>25 A Well, if it was before my hack, it would</p>
<p style="text-align: right;">234</p> <p>1 get pink current trading, the parent company. So</p> <p>2 that's -- remember, we talked about the spinout for</p> <p>3 Takeover. So we realized we needed a company that</p> <p>4 could be audited and get spun out. So that was the</p> <p>5 beginning of the conversation for Next Gen.</p> <p>6 Q When was this?</p> <p>7 A March, April, May, June '23.</p> <p>8 Q So this was after the -- after</p> <p>9 Mr. Deppoleto started his lawsuit in late 2022;</p> <p>10 correct?</p> <p>11 A Everything was after. His lawsuit was</p> <p>12 filed, like, simultaneous with -- yes. The answer</p> <p>13 is yes. Sorry.</p> <p>14 Q Did you discuss at all the fact that he</p> <p>15 had a lawsuit pending against Takeover already and</p> <p>16 that Next Gen was going to be selling similar</p> <p>17 products to Takeover?</p> <p>18 A Well, Next Gen was not selling similar</p> <p>19 products, and one of the reasons we had to form</p> <p>20 Next Gen was because James was suing Takeover,</p> <p>21 making it a non-viable candidate for spinout.</p> <p>22 Q So part of the motivation for forming</p> <p>23 Next Gen was James's lawsuit against Takeover?</p> <p>24 A I don't -- I mean, one piece of it but</p> <p>25 certainly not all of it. I mean, there were</p>	<p style="text-align: right;">236</p> <p>1 have been Tom@Takeover because we didn't have Next</p> <p>2 Gen or LOCK'D IN, so probably Tom@Takeoverind.com.</p> <p>3 Q How about Mr. Holley and Mr. Pavlick?</p> <p>4 A Mike would have been</p> <p>5 Mike@Takeoverind.com, and Joe would have been</p> <p>6 Joe@Takeoverind.com.</p> <p>7 Q So these are all Takeover email</p> <p>8 addresses that they were still using in the</p> <p>9 Marchish 2023 time frame?</p> <p>10 A Right. Because Next Gen had not been</p> <p>11 formed, and there was no plan to do anything other</p> <p>12 than just save Takeover.</p> <p>13 Q And Takeover was paying for hosting of</p> <p>14 those emails; correct?</p> <p>15 A I believe so, yes.</p> <p>16 Q So you were using Takeover resources to</p> <p>17 plan Next Gen; true?</p> <p>18 A The parent company was Labor Smart, but</p> <p>19 Labor Smart doesn't have a checking account. So</p> <p>20 the active subsidiary at the time served as the</p> <p>21 operating account for the parent company. So if</p> <p>22 you want to say the GoDaddy Takeover email account,</p> <p>23 there were emails crossing that discussed Next Gen</p> <p>24 -- it's possible -- but I can't point to it because</p> <p>25 I don't have a Takeover Ind. email.</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

60 (237 to 240)

<p style="text-align: right;">237</p> <p>1 Q You said Labor Smart, at that time,</p> <p>2 didn't have its own bank account?</p> <p>3 A It still doesn't.</p> <p>4 Q Okay.</p> <p>5 A It still doesn't.</p> <p>6 Q So the first dollar that was spent on</p> <p>7 Next Gen's behalf that came out of Takeover's bank</p> <p>8 account; correct?</p> <p>9 A I don't -- I can't say that. No.</p> <p>10 Because I believe I funded the Next Gen account.</p> <p>11 Like, we started Next Gen, funded Next Gen. Like,</p> <p>12 Next Gen has a bank account. Takeover has a bank</p> <p>13 account. Now they have two separate bank accounts.</p> <p>14 Q When did you open the Next Gen bank</p> <p>15 account?</p> <p>16 A I did not open it.</p> <p>17 Q Who did?</p> <p>18 A Mike.</p> <p>19 Q Is that at the same bank as the Takeover</p> <p>20 bank account?</p> <p>21 A I would assume so, yes. I can't -- I</p> <p>22 can't swear to it, but I would assume so.</p> <p>23 Q And you're positive it was opened before</p> <p>24 your -- well, was your dollar dollar one for Next</p> <p>25 Gen?</p>	<p style="text-align: right;">239</p> <p>1 it. I just don't recall.</p> <p>2 Q And is it your testimony that no</p> <p>3 Takeover money was used for Next Gen?</p> <p>4 A Yes. And if it was, it'd be unbeknownst</p> <p>5 to me.</p> <p>6 MR. HARVEY: I'm handing you Zarro</p> <p>7 Exhibit 15.</p> <p>8 (Exhibit 15 was marked for identification.)</p> <p>9 Q And at the top of the first page, which</p> <p>10 is Bates labeled DEF24 -- and I'll tell you too</p> <p>11 just for context. You'll see the Bates numbers are</p> <p>12 not direct order because I was trying to save some</p> <p>13 trees; so I only printed those pages I wanted to</p> <p>14 talk about.</p> <p>15 A Okay.</p> <p>16 Q But the first one is DEF24, and at the</p> <p>17 top it says, Bank of America Takeover Industries</p> <p>18 Inc., Account Number. It's got a number. And it</p> <p>19 says, January 1, 2022, to January 31, 2022.</p> <p>20 Do you see all that?</p> <p>21 A Yes.</p> <p>22 Q Now stepping away from that for a first</p> <p>23 second. We looked at your initial note a little</p> <p>24 bit earlier, and we can pull it out if you want,</p> <p>25 but your initial note was with Labor Smart;</p>
<p style="text-align: right;">238</p> <p>1 A I don't know. I don't recall.</p> <p>2 Q Who would know that?</p> <p>3 A Probably Mike.</p> <p>4 Q And I think I asked, but I want to make</p> <p>5 sure. You don't know when it was opened?</p> <p>6 A Not exactly. No.</p> <p>7 Q What's your best guess?</p> <p>8 A May, June. When was Next Gen formed?</p> <p>9 Have we -- you must have that. Never mind. I know</p> <p>10 I don't ask a question. Sorry. Thank you. I --</p> <p>11 whenever -- before Next Gen was formed.</p> <p>12 Q Now your initial payment that was going</p> <p>13 to go to Next Gen -- was that a wire, or was that a</p> <p>14 check?</p> <p>15 A Everything was wired. For the most</p> <p>16 part, all wires.</p> <p>17 Q Just that first one is the one I want to</p> <p>18 laser focus on.</p> <p>19 A My assumption is yes.</p> <p>20 Q Okay. And is it your testimony that</p> <p>21 that first wire went directly into Next Gen's bank</p> <p>22 account as opposed to going to Takeover first and</p> <p>23 then into Next Gen's account?</p> <p>24 A I don't know. My assumption is it went</p> <p>25 into Next Gen's bank account, but I can't swear to</p>	<p style="text-align: right;">240</p> <p>1 correct?</p> <p>2 A Correct.</p> <p>3 Q Okay. It was not a note between you and</p> <p>4 Takeover directly; correct?</p> <p>5 A Kind of. It encompassed all</p> <p>6 subsidiaries.</p> <p>7 MR. HARVEY: Okay. Maybe we should pull</p> <p>8 it out. The convertible note purchase agreement.</p> <p>9 MR. BENNION: Which exhibit is that?</p> <p>10 MR. HARVEY: Exhibit 1. Zarro Exhibit</p> <p>11 1.</p> <p>12 THE WITNESS: Somewhere in there it</p> <p>13 talks about --</p> <p>14 MR. BENNION: There's no question before</p> <p>15 you.</p> <p>16 THE WITNESS: Oh, sorry.</p> <p>17 MR. HARVEY: Okay. So I'll hand this to</p> <p>18 you in a second. Actually, I'll hand it to you.</p> <p>19 THE WITNESS: Thank you.</p> <p>20 MR. HARVEY: So I want to ask you a</p> <p>21 question about the first page.</p> <p>22 THE WITNESS: Oh, okay.</p> <p>23 Q The very top of the first page says,</p> <p>24 Convertible Note Purchase Agreement. It says, This</p> <p>25 convertible note purchase agreement -- I'm skipping</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

61 (241 to 244)

241	<p>1 the parenthetical -- dated as of June 18, 2021, is</p> <p>2 entered into among Labor Smart Inc., a Wyoming</p> <p>3 corporation, paren, the, quote, company, end paren,</p> <p>4 and the persons and entities, paren, each</p> <p>5 individually, quote, purchaser, end quote, and</p> <p>6 collectively, the, quote, purchasers, end quote,</p> <p>7 end paren named on the schedule of purchasers</p> <p>8 attached hereto. And this is the schedule of</p> <p>9 purchasers.</p> <p>10 Did I read that right?</p> <p>11 A Yes.</p> <p>12 Q Okay. And we looked at the schedule of</p> <p>13 purchasers earlier which is on DEF478; correct?</p> <p>14 A Schedule of purchasers. Yes.</p> <p>15 Q And the only purchaser listed is</p> <p>16 yourself, Thomas Zarro; correct?</p> <p>17 A Yes.</p> <p>18 Q Okay. So taking us back to that first</p> <p>19 paragraph, it says, The agreement is between Labor</p> <p>20 Smart Inc. and yourself; correct?</p> <p>21 A Yes.</p> <p>22 Q Okay. So the note was not directly</p> <p>23 between you and Takeover; correct?</p> <p>24 A I believe that's correct.</p> <p>25 MR. HARVEY: Okay. You can put that</p>	243	<p>1 A Yes.</p> <p>2 Q Then if we go to the middle of page 3,</p> <p>3 which is DEF104, there's a June 6, 2022, notation</p> <p>4 showing a payment from Takeover to you for \$26,000</p> <p>5 and change; correct?</p> <p>6 A Yes.</p> <p>7 Q Okay. And then if we go on page 4 about</p> <p>8 two thirds of the way down, on July 12, 2022,</p> <p>9 there's a payment from Takeover to you for 26,000</p> <p>10 and change; correct?</p> <p>11 A Yes.</p> <p>12 Q Then if we go to page 5, a little more</p> <p>13 than two thirds of the way down the page, there's a</p> <p>14 notation September 14, 2022, payment from Takeover</p> <p>15 to you for \$26,000 and change; correct?</p> <p>16 A Yes.</p> <p>17 Q Then on page 6 about halfway down --</p> <p>18 well, actually, let me -- let me stop there for one</p> <p>19 moment. So we've just talked about several</p> <p>20 payments from Takeover to you; correct?</p> <p>21 A Yes.</p> <p>22 Q And these -- some of these were in the</p> <p>23 time frame where Mr. Deppoleto had already invested</p> <p>24 money in the company; correct?</p> <p>25 A Yes. Yes.</p>
242	<p>1 back in our stack before we lose it or lose our</p> <p>2 order.</p> <p>3 THE WITNESS: All right.</p> <p>4 MR. HARVEY: Now I'm taking us back to</p> <p>5 Exhibit 15, Zarro Exhibit 15, the one you've got in</p> <p>6 front of you. If you look on that first page,</p> <p>7 DEF24, towards the bottom of that first page,</p> <p>8 there's a -- and this is the withdrawals and other</p> <p>9 debits section. There's a notation January 24,</p> <p>10 2022.</p> <p>11 Q Do you see that?</p> <p>12 A Yes.</p> <p>13 Q And that is a wire transfer to you,</p> <p>14 Mr. Zarro; correct?</p> <p>15 A Yes.</p> <p>16 Q And it's for \$26,000 and change;</p> <p>17 correct?</p> <p>18 A Yes.</p> <p>19 Q And if we go to the top of page 2, which</p> <p>20 is DEF55, the second entry is March 28th, 2022;</p> <p>21 correct?</p> <p>22 A Yes.</p> <p>23 Q And that indicates there was a Takeover</p> <p>24 payment to you, Mr. Zarro, for \$52,000 and change;</p> <p>25 correct?</p>	244	<p>1 Q And these were not payments you were</p> <p>2 receiving from Labor Smart; correct?</p> <p>3 A Well, they're certainly on behalf of</p> <p>4 Labor Smart.</p> <p>5 Q Well, but the bank account is Takeover</p> <p>6 Industries Inc., and it says Takeover Industries to</p> <p>7 you; correct?</p> <p>8 A Yes.</p> <p>9 Q Okay. Then if we could look at page 6,</p> <p>10 which is DEF196 --</p> <p>11 A Hang on. I'm lost. DEF page -- I've</p> <p>12 got page 5, and then it goes to page 3.</p> <p>13 Q Yeah. No. No. Look at the Bates</p> <p>14 number.</p> <p>15 MR. BENNION: Bates stamp numbers.</p> <p>16 Q DEF196.</p> <p>17 A Oh, got it. Got it. Got it. Okay. I</p> <p>18 see it.</p> <p>19 Q Yep. So about halfway down, there's a</p> <p>20 notation from December 16, 2022, for \$20,000. Do</p> <p>21 you see that?</p> <p>22 A Yes.</p> <p>23 Q What is that for? Do you know?</p> <p>24 A That's what we spoke about earlier,</p> <p>25 Mr. Harvey -- the purchase of the water.</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

62 (245 to 248)

245	<p>1 Q So you were buying water from Takeover</p> <p>2 at that point?</p> <p>3 A Because the company needed money, and</p> <p>4 this was a way to fund it. Yes.</p> <p>5 Q Okay. And then the notation on the 19th</p> <p>6 --</p> <p>7 A The same thing.</p> <p>8 Q -- of December 2022 for \$32,000. What</p> <p>9 is that?</p> <p>10 A It's the second half of that \$52,000</p> <p>11 payment to buy that truckload of water.</p> <p>12 Q Okay. Then if we go to the top of page</p> <p>13 7, which is DEF210, there's a notation, January 10,</p> <p>14 2023.</p> <p>15 A Mm-hmm.</p> <p>16 Q Do you see that?</p> <p>17 A Yes.</p> <p>18 Q And the description says, Half cost for</p> <p>19 purchase of TL of shots. What is that payment for?</p> <p>20 A That looks like it's the energy shots</p> <p>21 that we spoke about that I also purchased for the</p> <p>22 purpose of funding Takeover.</p> <p>23 Q And specifically how much product did</p> <p>24 you receive in exchange for that 33?</p> <p>25 A I don't have any -- I don't know.</p>	247
246	<p>1 Q And you said you never sold any of that</p> <p>2 product and you still have it; correct?</p> <p>3 A Yes.</p> <p>4 Q And if we go about halfway down on</p> <p>5 DEF210, there's an entry, January 24, 2023, for</p> <p>6 33,692.</p> <p>7 Do you see that?</p> <p>8 A I do.</p> <p>9 Q And that says, Final payment on purchase</p> <p>10 of shots; correct?</p> <p>11 A Correct.</p> <p>12 Q Is that the remainder of the payment you</p> <p>13 were talking about earlier?</p> <p>14 A Yes. I believe so.</p> <p>15 Q And you don't know how much product you</p> <p>16 acquired?</p> <p>17 A I really don't.</p> <p>18 Q And you didn't sell any of that second</p> <p>19 set that you purchased?</p> <p>20 A No. It's all in a warehouse.</p> <p>21 Q If we go on the top of page 8, which is</p> <p>22 DEF238, on the very first entry, March 2, 2023,</p> <p>23 there's a notation for \$33,000.</p> <p>24 A It's DEF234; correct?</p> <p>25 Q 234.</p>	248
	<p>1 A Okay.</p> <p>2 Q Oh, actually, I'm asking you about the</p> <p>3 wrong one. I'm sorry. Could you go to page 10</p> <p>4 which is DEF254. Are you at DEF254?</p> <p>5 A I am. I am.</p> <p>6 Q Okay. About halfway down on May 12,</p> <p>7 2023, there's a notation for 40,950.</p> <p>8 Do you see that?</p> <p>9 A Mm-hmm. I do.</p> <p>10 Q What is that?</p> <p>11 A I think that's the -- more shots.</p> <p>12 Remember, I said it was about 120,000 all in?</p> <p>13 Q Okay. And you received those?</p> <p>14 A The energy shots?</p> <p>15 Q Yes.</p> <p>16 A Yes. They're in a warehouse.</p> <p>17 Q And you still have all of those too?</p> <p>18 A Yeah.</p> <p>19 Q Okay. And then there's a series of what</p> <p>20 looks like Shopify comes up in the description, and</p> <p>21 I'll show you a couple of them so you can see. But</p> <p>22 do you know why Shopify would be showing up in the</p> <p>23 description just as a general?</p> <p>24 A Yes.</p> <p>25 Q Why?</p>	

Transcript of Thomas Zarro
Conducted on November 21, 2024

63 (249 to 252)

249	<p>1 A Yeah. Because, again, when I first came</p> <p>2 on the scene, trusting nobody, knowing this company</p> <p>3 still owed me money, I purchased the water. The</p> <p>4 company -- Takeover needed money. So instead of</p> <p>5 just blindly writing a check on the heels of not</p> <p>6 getting paid and the insanity, I said, I'll buy the</p> <p>7 water, put it in the inventory as -- you'll get all</p> <p>8 the money up front to make all your payments, and I</p> <p>9 will get paid as the water sells. So, basically, I</p> <p>10 use the water to collateralize my investment and I</p> <p>11 got paid through the sale of it.</p> <p>12 Q So I think I understand that part, but</p> <p>13 what's tripping me up is -- so, for example, right</p> <p>14 beneath that it says, Withdrawals and other debits.</p> <p>15 So if they were -- if Takeover was sending you</p> <p>16 money, it should show up in that section, but this</p> <p>17 is showing up in deposits and other credits.</p> <p>18 A Oh. And I have no idea. I thought it</p> <p>19 was -- so this is not me getting paid back. This</p> <p>20 is more money going from me to the company? That</p> <p>21 doesn't make sense.</p> <p>22 Q That's what it appears.</p> <p>23 A Yeah. Something's wrong. I don't know.</p> <p>24 I don't know.</p> <p>25 Q Okay.</p>	251	<p>1 amount of money.</p> <p>2 A No. Because we've already identified</p> <p>3 the big checks, and those add up to my amounts.</p> <p>4 Like, in my head, I'm at 52 for the water and about</p> <p>5 120 for the shots. So that money has been</p> <p>6 accounted for. This money, I don't know. This is,</p> <p>7 like, a trip. I don't know.</p> <p>8 Q So then if you look down further on that</p> <p>9 page, May 12, 2023, through May 19, 2023, all but</p> <p>10 one of those entries had a Shopify. It looks</p> <p>11 similar to the one we were just talking about --</p> <p>12 Shopify. It looks like T.K. Zarro was depositing</p> <p>13 money into Takeover's account. So you don't</p> <p>14 understand why?</p> <p>15 A I absolutely do not. I do not.</p> <p>16 Q Okay.</p> <p>17 A But I'm going to know tomorrow. I</p> <p>18 promise you that.</p> <p>19 Q So then if we go --</p> <p>20 THE WITNESS: Sorry, Don.</p> <p>21 Q If we go to page 16, which is DEF255 --</p> <p>22 oh, I'm sorry -- page 11, DEF255, so the next page</p> <p>23 -- under the withdrawals and debits, here we've got</p> <p>24 a Shopify T.K. Zarro and 123 for May 2, 2023. Do</p> <p>25 you see that one?</p>
250	<p>1 A If we look at deposits and other credits</p> <p>2 -- yeah. Interesting.</p> <p>3 Q So -- and then if we look at DEF254, so</p> <p>4 the next page --</p> <p>5 A The same but more.</p> <p>6 Q -- on -- well, let's just focus on the</p> <p>7 May 4th entry. It's about a third of the way down</p> <p>8 the page for \$332 Shopify and then IndntnakZarro.</p> <p>9 So this looks like this is being deposited into</p> <p>10 Takeovers account. Do you have any recollection of</p> <p>11 why that would have been?</p> <p>12 A No.</p> <p>13 Q And then --</p> <p>14 A Does it show where it's coming from?</p> <p>15 Q I think Shopify is (crosstalk).</p> <p>16 A Oh, Shopify. Okay.</p> <p>17 Q Yeah.</p> <p>18 A I have to drill down.</p> <p>19 Q Were you -- is it possible that, instead</p> <p>20 of paying via one or two big checks, that you paid</p> <p>21 kind of as you went?</p> <p>22 A No. No. Because then it would show</p> <p>23 that I paid.</p> <p>24 Q Well, I think that is saying T.K. Zarro</p> <p>25 was paying, depositing into Takeover's account that</p>	252	<p>1 A I do.</p> <p>2 Q And then May 8, 2023, another Shopify.</p> <p>3 A giant 1482 payment. Do you understand what's</p> <p>4 going on with those transactions?</p> <p>5 A Hang on. Do you show -- hang on.</p> <p>6 Please give me a second.</p> <p>7 Q Sure.</p> <p>8 A The specific question, sir?</p> <p>9 Q Do you know why you were getting --</p> <p>10 apparently getting paid on May 2 and May 8?</p> <p>11 A Hang on. May 2 and May 8.</p> <p>12 Q So DEF255.</p> <p>13 A I do not.</p> <p>14 Q So then if we look at -- I think I know</p> <p>15 the answer, but I've got to ask you anyways --</p> <p>16 DEF268 through 269, there's a -- and this is still</p> <p>17 in the deposits and other credits -- it looks like</p> <p>18 a series of similar transactions where Shopify --</p> <p>19 and your depositing money in at various intervals</p> <p>20 between June 1, 2023, and June 23, 2023, when you</p> <p>21 look onto DEF269. Do you understand what's going</p> <p>22 on with those transactions?</p> <p>23 A I have a hunch.</p> <p>24 Q What's your hunch?</p> <p>25 THE WITNESS: Sorry, Don.</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

64 (253 to 256)

<p style="text-align: right;">253</p> <p>1 A I think the Shopify system is showing</p> <p>2 under my name because I bought the water, but the</p> <p>3 money was going into the Takeover account. So I</p> <p>4 think it's the sale of the water going into</p> <p>5 Takeover's account instead of going into my</p> <p>6 account. My question for myself is how did I</p> <p>7 reconcile that?</p> <p>8 Q So it was being earmarked for you?</p> <p>9 A Yeah. But I'm not seeing it come back</p> <p>10 to me. So I have to see if there's another</p> <p>11 transaction where actually -- where it actually</p> <p>12 comes back, but that's my work to do. But that's</p> <p>13 my assumption --</p> <p>14 Q Okay.</p> <p>15 A -- why my name is there, but it didn't</p> <p>16 come from my account. I think it's the resale of</p> <p>17 the water going back into Takeover.</p> <p>18 Q Okay. Right beneath that on DEF269,</p> <p>19 there's an entry June 29, 2023. So -- and it's in</p> <p>20 the deposits and other credits. It appears to show</p> <p>21 Next Gen Beverages paying \$15,000 into Takeover's</p> <p>22 account. Do you see that?</p> <p>23 A I do.</p> <p>24 Q Why is that happening?</p> <p>25 A Probably because Takeover needed the</p>	<p style="text-align: right;">255</p> <p>1 point of clarification. Did you say Whitehead &</p> <p>2 Burnett on DEF00629 of Exhibit 15?</p> <p>3 MR. HARVEY: No.</p> <p>4 MR. BENNION: Okay.</p> <p>5 MR. HARVEY: No. I was -- I had moved</p> <p>6 on from that exhibit.</p> <p>7 MR. BENNION: Okay. Thank you.</p> <p>8 THE WITNESS: In the stack --</p> <p>9 MR. HARVEY: Yeah.</p> <p>10 THE WITNESS: -- I'm assuming.</p> <p>11 MR. HARVEY: So this is Zarro Exhibit 16</p> <p>12 that I'm handing you.</p> <p>13 (Exhibit 16 was marked for identification.)</p> <p>14 Q And, generally speaking, Zarro Exhibit</p> <p>15 16 Bates labeled DEF464 through 465. It's a letter</p> <p>16 from Whitehead & Burnett, dated August 3, 2023, to</p> <p>17 my partner at Husch Blackwell, Michael Brandis, as</p> <p>18 well as Jennifer Reiter from Reiter Law; correct?</p> <p>19 A Yes.</p> <p>20 Q Who paid for the legal services of</p> <p>21 Whitehead & Burnett in August 2023? Was it</p> <p>22 Takeover?</p> <p>23 A August '23. I'm assuming Next Gen.</p> <p>24 MR. HARVEY: Okay. Let me show you</p> <p>25 another exhibit. This will be Zarro Exhibit 17.</p>
<p style="text-align: right;">254</p> <p>1 money, and Next Gen was loaning it to it.</p> <p>2 Q Is there documentation of that?</p> <p>3 A I'm sure. Yeah.</p> <p>4 Q Okay. If you go halfway down that page,</p> <p>5 now we're in the withdrawals and other debits.</p> <p>6 There's a 6/2023 entry -- Shopify. You're getting</p> <p>7 a hundred-dollar 0.84 payment.</p> <p>8 Do you see that?</p> <p>9 A I do.</p> <p>10 Q Do you understand what's going on there?</p> <p>11 A I do not.</p> <p>12 Q Who is -- well, actually, strike that.</p> <p>13 Whitehead Burnett -- Whitehead & Burnett is your --</p> <p>14 recently filed an appearance on your behalf and on</p> <p>15 the other Defendants' behalf; correct?</p> <p>16 A Yes.</p> <p>17 Q Does Whitehead & Burnett -- or has it in</p> <p>18 the past before filing a notice of appearance, did</p> <p>19 it represent Next Gen Beverages?</p> <p>20 A It did. They did, not it.</p> <p>21 MR. HARVEY: And I'll show you an</p> <p>22 exhibit just to kind of orient ourselves.</p> <p>23 THE WITNESS: Okay.</p> <p>24 MR. BENNION: I'm looking for the last</p> <p>25 transaction that you referred to, Counsel, just for</p>	<p style="text-align: right;">256</p> <p>1 (Exhibit 17 was marked for identification.)</p> <p>2 Q So if you look at Zarro Exhibit 17, the</p> <p>3 first page of it's DEF257, just about the middle of</p> <p>4 it on May 22, 2023. And this is a Takeover</p> <p>5 Industries' account statement. We're in the</p> <p>6 withdrawals and other debits section. On May 22,</p> <p>7 2023, Takeover was paying Whitehead & Burnett</p> <p>8 \$3,000; correct?</p> <p>9 A Yes.</p> <p>10 Q Why did Takeover pay Whitehead & Burnett</p> <p>11 3,000 in May 2023?</p> <p>12 A I don't know.</p> <p>13 Q Has Whitehead & Burnett -- other than</p> <p>14 before making a notice of appearance in this</p> <p>15 lawsuit about a week ago, has Whitehead & Burnett</p> <p>16 ever represented Takeover?</p> <p>17 A Yes.</p> <p>18 Q When?</p> <p>19 A Whitehead was consulted -- I'd have to</p> <p>20 go back in time but very early on in our</p> <p>21 engagement.</p> <p>22 Q If -- taking you back to Exhibit 16,</p> <p>23 which is the August 3, 2023, letter from Whitehead</p> <p>24 & Burnett -- the letter, not the bank statement.</p> <p>25 Are you following me?</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

65 (257 to 260)

257	<p>1 A Yeah. This is when he's responding to,</p> <p>2 I think, something you guys sent.</p> <p>3 Q I agree.</p> <p>4 A Okay.</p> <p>5 Q In that letter -- go ahead and read</p> <p>6 through it, but I believe he's purporting to draw a</p> <p>7 distinction and saying that the Whitehead & Burnett</p> <p>8 firm only represents Next Gen but does not</p> <p>9 represent --</p> <p>10 A Where are you seeing that, Mr. Harvey?</p> <p>11 Q So read the first paragraph.</p> <p>12 A Okay.</p> <p>13 Q He says, This firm represents Next Gen</p> <p>14 Beverages LLC, a wholly owned subsidiary of Labor</p> <p>15 Smart Inc. --</p> <p>16 A Okay.</p> <p>17 Q -- a Wyoming corporation, and we</p> <p>18 understand that Ms. Reiter represents Takeover</p> <p>19 Industries Inc.</p> <p>20 A Okay.</p> <p>21 Q And then he goes on? So as I'm reading</p> <p>22 that he, or the Whitehead & Burnett Law Firm, is</p> <p>23 drawing a distinction between Next Gen and Takeover</p> <p>24 and saying Whitehead & Burnett only represents Next</p> <p>25 Gen. Is that how you read that?</p>	259	<p>1 debits section, the first entry on July 3, 2023,</p> <p>2 shows Takeover paying Whitehead & Burnett \$10,000;</p> <p>3 correct?</p> <p>4 A On July 3rd, '23.</p> <p>5 Q Correct.</p> <p>6 A I do see that. Yes.</p> <p>7 Q Okay. Why was Takeover paying Whitehead</p> <p>8 & Burnett 10,000 in July 2023?</p> <p>9 A I don't recall.</p> <p>10 Q Because we've established that was after</p> <p>11 Next Gen's formation; correct?</p> <p>12 A We believe so, yes.</p> <p>13 Q So why wasn't Next Gen paying Whitehead &</p> <p>14 Burnett's legal fees?</p> <p>15 A I don't know. It's one of two -- one of</p> <p>16 two reasons: Either he was doing work for</p> <p>17 Takeover, or perhaps it was an intercompany loan.</p> <p>18 One of the two.</p> <p>19 Q Was the Next Gen bank account formed as</p> <p>20 of July 3, 2023?</p> <p>21 A I don't know.</p> <p>22 Q Was it formed as of May 22, 2023?</p> <p>23 A I do not know.</p> <p>24 Q Who would know the answer to that</p> <p>25 question?</p>
258	<p>1 A That's how I read it.</p> <p>2 Q Is that your understanding?</p> <p>3 A Yeah. I mean, this particular counselor</p> <p>4 gave us advice early on. So I don't know if it was</p> <p>5 -- what the exact scope of work was.</p> <p>6 Q So my -- I want to go back to my other</p> <p>7 question then. Why is Takeover paying Next Gen's law</p> <p>8 firm?</p> <p>9 A It's one of two reasons that I can think</p> <p>10 of: One, it was paid on behalf of Next Gen, in</p> <p>11 which point Next Gen paid back Takeover, like a</p> <p>12 loan, so to speak, or because work was performed</p> <p>13 for Takeover by this firm. One of the two.</p> <p>14 Q May 2023 was before Next Gen was formed</p> <p>15 though; correct?</p> <p>16 A I don't have the formation date of Next</p> <p>17 Gen. I've been struggling with that all day.</p> <p>18 Q Okay. Well, we agree it was formed at</p> <p>19 least as of June 2023; correct?</p> <p>20 A My assumption is yes. I don't -- I</p> <p>21 mean, you can show me the document that points to</p> <p>22 it, but I would think so, yes.</p> <p>23 Q Okay. So taking you back to Exhibit 17,</p> <p>24 the bank statement, if you go to page 2, the middle</p> <p>25 of page 2 or roundabouts, the withdrawals and other</p>	260	<p>1 A Mike Holley. Mike Holley. I can tell</p> <p>2 you that it's not at Bank of America. It's at</p> <p>3 Wells Fargo. So there are two separate -- like,</p> <p>4 see how Takeover is at Bank of America?</p> <p>5 Q Mm-hmm. Yes, sir.</p> <p>6 A Next Gen is at Wells Fargo.</p> <p>7 MR. HARVEY: And, Counsel, I don't think</p> <p>8 we received any Wells Fargo bank statements, and we</p> <p>9 did ask for Next Gen's bank statements. So I'll</p> <p>10 add that to the list of requests.</p> <p>11 MR. BENNION: Understood.</p> <p>12 Q Takeover and Next Gen are both beverage</p> <p>13 companies. Fair?</p> <p>14 A Yes.</p> <p>15 Q And there's no functional difference</p> <p>16 between the products that they make; correct?</p> <p>17 A Oh, there's major functional</p> <p>18 differences.</p> <p>19 Q What are those?</p> <p>20 A Well, like our court reporter mentioned,</p> <p>21 nootropics. Nootropics is classified as a</p> <p>22 functional beverage. Our coffee is a functional</p> <p>23 beverage.</p> <p>24 Q What's a functional beverage?</p> <p>25 A It's -- it serves a purpose beyond</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

66 (261 to 264)

261	<p>1 energy. Like the nootropics, great for legal</p> <p>2 because it not only energizes the body but also the</p> <p>3 mind. It allows focus. So it's considered a</p> <p>4 functional beverage. And the buzzword is</p> <p>5 nootropic.</p> <p>6 Q Gamer shots are also a functional</p> <p>7 beverage; correct?</p> <p>8 A I don't know the makeup. I don't know</p> <p>9 if it's just energy or if it's, you know, focus.</p> <p>10 I'm not involved in the formulation.</p> <p>11 Q Okay. As of Next Gen's -- well, we</p> <p>12 agree that, at least as of June 2023, Next Gen was</p> <p>13 formed and began operating; correct?</p> <p>14 MR. BENNION: I'm going to state an</p> <p>15 objection. It misstates his prior testimony.</p> <p>16 Go ahead and answer it.</p> <p>17 A I can't swear to that. My gut says yes,</p> <p>18 but I don't know.</p> <p>19 Q Let's just take an easy date beyond that</p> <p>20 -- September 2023. Next Gen was up and running;</p> <p>21 correct?</p> <p>22 A I have to assume. Yes. I mean, yeah.</p> <p>23 Q Okay. And you and the others who were,</p> <p>24 and still are in your case, still affiliated with</p> <p>25 Takeover in September 2023, you applied your best</p>	263	<p>1 A Sixty.</p> <p>2 Q How many hours --</p> <p>3 A Fifty to 60.</p> <p>4 Q How many hours a week do you spend</p> <p>5 attempting to grow Takeover now?</p> <p>6 A Two.</p> <p>7 Q And would that basically be the same</p> <p>8 breakdown as September 2023?</p> <p>9 A Somewhere around there. I don't know</p> <p>10 about September, but there was a shift. Yes.</p> <p>11 Q And you shifted while this lawsuit was</p> <p>12 pending; correct?</p> <p>13 A Yes.</p> <p>14 Q In, let's say, September 2023, how many</p> <p>15 hours would you estimate you put into trying to</p> <p>16 grow Takeover?</p> <p>17 A Minimum.</p> <p>18 Q Okay.</p> <p>19 A Several but minimal.</p> <p>20 Q I asked you earlier at what point it was</p> <p>21 that Takeover's liabilities were larger than its</p> <p>22 assets, and I think you told me essentially from</p> <p>23 the day after it was formed; is that correct?</p> <p>24 A That's my -- I don't have access to</p> <p>25 those financials, but that's what my gut tells me.</p>
262	<p>1 efforts to growing Next Gen; correct?</p> <p>2 A Absolutely. All the companies.</p> <p>3 Q And you stopped using your best efforts</p> <p>4 to grow Takeover; correct?</p> <p>5 MR. BENNION: Objection. Misstates his</p> <p>6 prior testimony. Vague and ambiguous.</p> <p>7 Go ahead.</p> <p>8 A No. We've never stopped trying for</p> <p>9 Takeover up to and including ongoing settlement</p> <p>10 discussions with Mr. Deppoleto. That's a Takeover</p> <p>11 situation.</p> <p>12 Q I'm focusing on growing the company.</p> <p>13 A Okay. If the answer is did we stop</p> <p>14 selling products under Takeover, yes, we did.</p> <p>15 Q In September 2023, you were using your</p> <p>16 best efforts to grow Next Gen; correct?</p> <p>17 A I would assume so, yes. Yes.</p> <p>18 Q In September 2023, you were not</p> <p>19 attempting to grow, Takeover; correct?</p> <p>20 MR. BENNION: The same objection.</p> <p>21 A I don't recall. That's a year plus ago,</p> <p>22 and I don't know the exact status -- what we were</p> <p>23 doing with Takeover.</p> <p>24 Q How many hours a week do you spend</p> <p>25 attempting to grow Next Gen now?</p>	264	<p>1 Q Certainly, since you have been involved,</p> <p>2 that's been the case; correct?</p> <p>3 A Absolutely. Yes. Actually, since the</p> <p>4 day James got involved, I would think.</p> <p>5 Q And so that entire time Takeover has</p> <p>6 been insolvent; correct?</p> <p>7 A Yes. By definition.</p> <p>8 Q And you understand that an insolvent</p> <p>9 company owes fiduciary duties to its creditors;</p> <p>10 correct?</p> <p>11 MR. BENNION: Objection to the extent --</p> <p>12 excuse me. Objection to the extent it may call for</p> <p>13 a legal conclusion.</p> <p>14 A Yeah. I think -- I think that's a safe</p> <p>15 statement, Mr. Harvey.</p> <p>16 Q And so, as a matter of best practices,</p> <p>17 insiders at Takeover should not be putting personal</p> <p>18 interests ahead of creditors; correct?</p> <p>19 A Correct.</p> <p>20 Q Insiders at Takeover should not be</p> <p>21 encouraging third parties to breach their contract</p> <p>22 with Takeover; correct?</p> <p>23 MR. BENNION: I'm going to state an</p> <p>24 objection. This line of questioning calls for a</p> <p>25 legal conclusion.</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

67 (265 to 268)

<p style="text-align: right;">265</p> <p>1 Go ahead.</p> <p>2 THE WITNESS: Ask the question again,</p> <p>3 Mr. Harvey.</p> <p>4 MR. HARVEY: Sure.</p> <p>5 Q Insiders at an insolvent company like</p> <p>6 Takeover should not be encouraging third parties to</p> <p>7 breach their contracts with Takeover; correct?</p> <p>8 A In general, yes. If there's something</p> <p>9 specific, there might be an explanation for it.</p> <p>10 Don't forget Takeover is a subsidiary of a parent</p> <p>11 company.</p> <p>12 Q What do you mean by that?</p> <p>13 A That means Takeover has additional</p> <p>14 obligations, and those board members have fiduciary</p> <p>15 duties to protect not only the creditors but the</p> <p>16 owners.</p> <p>17 Q As between the parent company and the</p> <p>18 creditors, whose interests should come first?</p> <p>19 MR. BENNION: Objection to the extent it</p> <p>20 may call for a legal conclusion.</p> <p>21 A I don't know the answer to that. I --</p> <p>22 Q How did you operate the company as a CEO</p> <p>23 when it -- when it came to interests of creditors</p> <p>24 or interests of Labor Smart?</p> <p>25 A I don't think they ever conflicted.</p>	<p style="text-align: right;">266</p> <p>1 Show me a conflict.</p> <p>2 Q For example, forming a new company to</p> <p>3 compete in the beverage industry with Takeover.</p> <p>4 A There was no competition ever. Takeover</p> <p>5 had no hydrogen water, and the shots were on</p> <p>6 lockdown per your cease and desist, and LOCK'D IN</p> <p>7 doesn't sell energy shots. It sells energy drinks</p> <p>8 but a very different vertical sector and</p> <p>9 demographic that we sell to.</p> <p>10 Q So your personal opinion is that Next</p> <p>11 Gen and Takeover don't compete with each other, but</p> <p>12 you would agree that they're both in the beverage</p> <p>13 industry; correct?</p> <p>14 A Correct.</p> <p>15 Q And in a niche of the beverage industry</p> <p>16 because they're not selling, for example, soda;</p> <p>17 correct?</p> <p>18 THE WITNESS: Ask that again.</p> <p>19 Q They're not selling Coca-Cola or Pepsi</p> <p>20 or competing products with Coke or Pepsi; true?</p> <p>21 A For the most part. We're not selling</p> <p>22 colas. Let's say that.</p> <p>23 Q Sure. You would agree with me that</p> <p>24 hydrogen water, Gamer Shots, nootropics -- it's a</p> <p>25 niche of the larger beverage industry; correct?</p>
<p style="text-align: right;">267</p> <p>1 A Yeah. I think so.</p> <p>2 Q Okay. Approximately what percentage of</p> <p>3 the beverage industry is sold or sells products</p> <p>4 like hydrogen water and things like that?</p> <p>5 A Very small.</p> <p>6 Q Ballpark?</p> <p>7 A Two percent, 3 percent.</p> <p>8 Q Okay.</p> <p>9 A Very small.</p> <p>10 Q And so your testimony is that, even</p> <p>11 though Takeover and Next Gen are both in that 2 to</p> <p>12 3 percent, they're not competing with each other?</p> <p>13 A I -- well, I didn't say Next Gen was in</p> <p>14 the 2 to 3 percent. Because don't forget Next Gen</p> <p>15 sells alkaline water, artesian water, nootropics</p> <p>16 energy drinks, hydrogen water, and nootropic</p> <p>17 coffee. So we've expanded the line substantially.</p> <p>18 Q What percentage of the beverage industry</p> <p>19 do you think would be encompassing those products?</p> <p>20 A Forty or 50 percent.</p> <p>21 Q Forty or 50?</p> <p>22 A Yeah. You're talking waters. Now</p> <p>23 you're in the water category. Yes.</p> <p>24 Q Okay. You've spoken to Mr.</p> <p>25 (indiscernible). Let me give you context for the</p>	<p style="text-align: right;">268</p> <p>1 question. You weren't actively involved with</p> <p>2 Takeover when Mr. Deppoleto loaned the money that</p> <p>3 we talked about earlier; correct?</p> <p>4 A Correct. Correct?</p> <p>5 Q You have, however, subsequently had</p> <p>6 discussions with individuals who were involved at</p> <p>7 that time, such as Mr. McBride and Mr. Holley;</p> <p>8 correct?</p> <p>9 A Correct.</p> <p>10 Q From those discussions, was it your</p> <p>11 understanding that they lied to Mr. Deppoleto to</p> <p>12 get him to loan Takeover the money?</p> <p>13 MR. BENNION: Objection to the form of</p> <p>14 the question. Lacks foundation.</p> <p>15 Go ahead.</p> <p>16 A I don't know of any lies they told him.</p> <p>17 Q So they intended to pay him back?</p> <p>18 A I don't think they signed off on these</p> <p>19 notes. Well, let me rephrase. I don't -- they</p> <p>20 weren't the one -- the ones driving the decision to</p> <p>21 borrow the money from Mr. Deppoleto. It was</p> <p>22 Jason Tucker that was doing all that and</p> <p>23 coordinating all that.</p> <p>24 Q Jason Tucker was the president of</p> <p>25 Takeover at the time; correct?</p>

Transcript of Thomas Zarro
Conducted on November 21, 2024

68 (269 to 272)

<p style="text-align: right;">269</p> <p>1 A And on the board. And -- no. I think</p> <p>2 he was CEO.</p> <p>3 Q Okay. And I can show them to you if you</p> <p>4 want, but I assume you've seen the written consents</p> <p>5 authorizing Mr. Tucker to take all of the actions</p> <p>6 that he took; correct?</p> <p>7 A Most likely, yes.</p> <p>8 Q Okay. So Takeover, the company,</p> <p>9 intended to pay Mr. Deppoleto back; correct?</p> <p>10 A Yeah. I believe they took the notes in</p> <p>11 good faith that there would be repayment. I</p> <p>12 believe so. I wasn't there.</p> <p>13 Q And I'm asking about subsequent</p> <p>14 discussions you've had with Mr. Holley and</p> <p>15 Mr. McBride that -- those individuals. When you've</p> <p>16 discussed them, did they say we didn't intend to</p> <p>17 pay him back even though we got the money?</p> <p>18 A They've never said that ever.</p> <p>19 Q Did they say we did intend to pay him</p> <p>20 back?</p> <p>21 A No. The conversations have been more</p> <p>22 the notes weren't validated. We didn't sign off on</p> <p>23 this. We didn't sign off on the deal that he was</p> <p>24 funding. That's their contention.</p> <p>25 Q So why didn't they send the money back</p>	<p style="text-align: right;">271</p> <p>1 A Correct.</p> <p>2 Q Who has made the decision not to repay</p> <p>3 Mr. Deppoleto?</p> <p>4 A Nobody's made a decision not to pay</p> <p>5 Mr. Deppoleto. We've been trying since day one. I</p> <p>6 have an email to Mr. Deppoleto in, I think,</p> <p>7 November or December of '22 saying, Let's discuss</p> <p>8 this. Let's see if we can put this together.</p> <p>9 Q Has he been paid even a penny?</p> <p>10 A No. But he's been offered. He's been</p> <p>11 offered compensation to get his note -- to get him</p> <p>12 paid completely and fully, and if he would have</p> <p>13 accepted the offer, he would have been paid by now.</p> <p>14 Q Why hasn't he just been paid?</p> <p>15 A Because there's no money.</p> <p>16 Q Is it your testimony there's been no</p> <p>17 money to repay him since November of 2022 when he</p> <p>18 sent the first notice of default?</p> <p>19 A There was no money to pay him and keep</p> <p>20 the company operational; correct?</p> <p>21 Q But the company is not operational right</p> <p>22 now anyways; correct?</p> <p>23 A It is not. It tried and failed.</p> <p>24 Q And it hasn't been operational since</p> <p>25 when?</p>
<p style="text-align: right;">270</p> <p>1 if they didn't want it?</p> <p>2 A They weren't in control of the account.</p> <p>3 Q Did they tell Mr. Tucker send that money</p> <p>4 back?</p> <p>5 MR. BENNION: Objection. Calls for</p> <p>6 speculation. Lacks foundation.</p> <p>7 A I believe they made it very clear that</p> <p>8 the deal they were doing was not healthy for the</p> <p>9 business from what they're telling me.</p> <p>10 Q Did they say to him send the money back</p> <p>11 or words to that effect?</p> <p>12 A I don't know. I wasn't there.</p> <p>13 Q And the money was spent; correct?</p> <p>14 A On the deals that Mr. Deppoleto and</p> <p>15 Jason Tucker wanted. Yes. I think so.</p> <p>16 Q I want to make sure. I think I asked</p> <p>17 you. Is it your testimony that Next Gen never</p> <p>18 transferred assets to Takeover or -- I'm sorry --</p> <p>19 that Takeover never transferred assets to Next Gen?</p> <p>20 A If they did, it was unbeknownst to me.</p> <p>21 And if there was any type of asset transfer, I'm</p> <p>22 sure fair value was paid, but I'm not aware of any,</p> <p>23 Mr. Harvey.</p> <p>24 Q You're the CEO of Takeover and have been</p> <p>25 since April 2023; correct?</p>	<p style="text-align: right;">272</p> <p>1 A May-June '23.</p> <p>2 MR. BENNION: Objection to the extent it</p> <p>3 may call for a legal conclusion.</p> <p>4 Q So why not just cut him a check for</p> <p>5 whatever Takeover had as of May-June 2023?</p> <p>6 A What did Takeover have May-June 2023?</p> <p>7 Q Whatever it was, why didn't they pay</p> <p>8 him?</p> <p>9 A I -- the account was probably negative.</p> <p>10 Certainly in debt.</p> <p>11 Q My understanding from previous testimony</p> <p>12 is that Takeover does still have a bank account</p> <p>13 that has a six-figure number in it. Is your</p> <p>14 understanding different?</p> <p>15 A Yes.</p> <p>16 Q Okay.</p> <p>17 A You're telling me there's a hundred</p> <p>18 dollars in Takeover?</p> <p>19 Q Maybe I'm misremembering the testimony,</p> <p>20 but I thought that that was -- oh, I take that</p> <p>21 back. There was value. Let me ask you this: Does</p> <p>22 Takeover have shares of Labor Smart --</p> <p>23 A Yes.</p> <p>24 Q -- that it -- that it owns?</p> <p>25 A I believe so.</p>



Transcript of Thomas Zarro
Conducted on November 21, 2024

69 (273 to 276)

<p style="text-align: right;">273</p> <p>1 Q How many?</p> <p>2 A Approximately a hundred million.</p> <p>3 Q And how much is that worth?</p> <p>4 A A hundred million times -- I don't know</p> <p>5 what we closed at today, but call it two. So</p> <p>6 \$200,000, maybe.</p> <p>7 Q Perhaps that's what I'm thinking.</p> <p>8 A Yeah.</p> <p>9 Q Why not give that to Mr. Deppoleto in</p> <p>10 partial repayment of the debt?</p> <p>11 A I'd be happy to.</p> <p>12 Q Why haven't you? You're the CEO.</p> <p>13 A Because we've had trouble finishing</p> <p>14 conversations with Mr. Deppoleto. We've been at</p> <p>15 this table many times saying, How do we get you</p> <p>16 paid? We've provided many solutions. Frankly,</p> <p>17 James and I have come up with many solutions.</p> <p>18 Every time it hits Husch Blackwell, it hits a brick</p> <p>19 wall.</p> <p>20 Q My question is slightly different,</p> <p>21 though. You have said, at least as to the 1.5</p> <p>22 million, Takeover clearly owes that to</p> <p>23 Mr. Deppoleto; correct?</p> <p>24 MR. BENNION: I'm going to object to the</p> <p>25 form of the question. Misstates prior testimony.</p>	<p style="text-align: right;">275</p> <p>1 then a stack that big of a settlement agreement</p> <p>2 comes across with a personal guarantee from me.</p> <p>3 That's been the issue.</p> <p>4 Q So whether we can agree to disagree on</p> <p>5 whether -- well, strike that. Let me ask it this</p> <p>6 way: We are in complete and total agreement that</p> <p>7 Takeover received the value of at least \$1.5</p> <p>8 million; correct?</p> <p>9 A Yes, Mr. Harvey.</p> <p>10 Q Who has the final say-so on what to do</p> <p>11 with Takeover's assets today?</p> <p>12 MR. BENNION: Objection to the extent</p> <p>13 that it may call for a legal conclusion.</p> <p>14 Go ahead.</p> <p>15 A The board. I would have strong</p> <p>16 influence but the board primarily.</p> <p>17 MR. HARVEY: Why don't we go off the</p> <p>18 record for two minutes. I just want to flip</p> <p>19 through my notes, but we may be able to move onto</p> <p>20 the next deposition.</p> <p>21 MR. BENNION: Okay.</p> <p>22 THE VIDEOGRAPHER: We are going off the</p> <p>23 record. The time is 2:34 p.m.</p> <p>24 (Off the record.)</p> <p>25 (On the record.)</p>
<p style="text-align: right;">274</p> <p>1 Go ahead.</p> <p>2 A No. What I said was the 1.5 -- I don't</p> <p>3 debate whether the 1.5 came into the account. It</p> <p>4 did. Does it owe it? I don't know. I don't know</p> <p>5 because the people that signed the notes and the</p> <p>6 people that were there at the time said these notes</p> <p>7 were not done properly. We have legal counsel that</p> <p>8 says these notes were not done properly.</p> <p>9 MR. BENNION: I'm going to object to any</p> <p>10 -- the question to the extent it seeks to violate</p> <p>11 the attorney-client privilege.</p> <p>12 Go ahead.</p> <p>13 A So going back to the beginning of the</p> <p>14 answer, I've seen that the money has gone in.</p> <p>15 That's been substantiated. The people that were</p> <p>16 there at the time said the notes were not done</p> <p>17 properly. So I don't know if the notes and the</p> <p>18 debt is valid. I can say that I have taken the</p> <p>19 posture with Mr. Deppoleto that the notes are valid</p> <p>20 and have made multiple attempts to try and settle</p> <p>21 him with the only currency that Takeover has, which</p> <p>22 is its parent's company stock or convertible note</p> <p>23 to pay him in full for what he's claiming, not even</p> <p>24 debating that extra 5- or \$600,000. All of those</p> <p>25 deals are done until we get to Husch Blackwell, and</p>	<p style="text-align: right;">276</p> <p>1 THE VIDEOGRAPHER: We are going back on</p> <p>2 the record. The time is 2:42 p.m.</p> <p>3 MR. HARVEY: We're still obviously</p> <p>4 reserving our rights to ask additional questions</p> <p>5 about Acme Corporation. We're also reserving our</p> <p>6 rights to ask him additional questions to the</p> <p>7 extent we have not been produced documents that we</p> <p>8 should have been produced in discovery. Other than</p> <p>9 that, unless your counsel has any questions for</p> <p>10 you, in which case I'll have some follow-up, I have</p> <p>11 no further questions for you, Mr. Zarro, in your</p> <p>12 individual capacity.</p> <p>13 THE WITNESS: Okay. Am I allowed to</p> <p>14 object?</p> <p>15 MR. BENNION: No.</p> <p>16 THE WITNESS: Okay.</p> <p>17 MR. BENNION: I have no questions.</p> <p>18 THE WITNESS: Okay. Okay.</p> <p>19 THE VIDEOGRAPHER: Before we before we</p> <p>20 go off the record, Mr. Bennion, would you like a</p> <p>21 copy of the video from today's deposition?</p> <p>22 MR. BENNION: I don't think I need the</p> <p>23 video but definitely the written transcript.</p> <p>24 THE VIDEOGRAPHER: This marks the end of</p> <p>25 the deposition of Tom Zarro, individually. We're</p>

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70 (277 to 280)

<p style="text-align: right;">277</p> <p>1 going off the record at 2:43 p.m. 2 (Off the record at 2:43 p.m.) 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">279</p> <p>1 CERTIFICATE OF TRANSCRIBER 2 I, Jennifer Candela-Alvarez, do 3 hereby certify that this transcript was prepared 4 from the digital audio recording of the foregoing 5 proceeding; that said transcript is a true and 6 accurate record of the proceedings to the best of 7 my knowledge, skills, and ability; and that I am 8 neither counsel for, related to, nor employed by 9 any of the parties to the case and have no 10 interest, financial or otherwise, in its outcome. 11 12  13 _____ 14 JENNIFER CANDELA-ALVAREZ 15 DECEMBER 9, 2024 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">278</p> <p>1 CERTIFICATE OF COURT REPORTER - NOTARY PUBLIC 2 I, Mylene Santiano, the officer before 3 whom the foregoing proceedings were taken, do 4 hereby certify that any witness(es) in the 5 foregoing proceedings were fully sworn; that the 6 proceedings were recorded by me and thereafter 7 reduced to typewriting by a qualified 8 transcriptionist; that said digital audio recording 9 of said proceedings are a true and accurate record 10 to the best of my knowledge, skills, and ability; 11 and that I am neither counsel for, related to, nor 12 employed by any of the parties to this case and 13 have no interest, financial or otherwise, in its 14 outcome. 15 16 17 18  19 _____ 20 MYLENE SANTIANO, 21 NOTARY PUBLIC FOR THE STATE OF NEVADA 22 23 24 25</p>	